



IPLDP Quick Notes

Version 1.15



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Induction Quick Notes

Underpinning Ethics and Values of the Police Service (IND01)

v1.00

Society has expectations of its police service and you need to ensure that your behaviour contributes to a positive relationship between the police and the public. The Human Rights Act 1998 placed responsibility on all public bodies to ensure that their actions are compatible with the European Convention on Human Rights (ECHR). The implications of not acting fairly, professionally, honestly and with integrity are substantial, given the scope of the police to infringe on the freedoms and rights of individuals.

Origin of police values and ethics

Significant public inquiries and reports

The following significant inquiries and reports were a catalyst in changing police ethics and values:

- The murder of Stephen Lawrence (April 1993) which led to the Stephen Lawrence inquiry and the subsequent Macpherson report (1999).
- The Shipman inquiry and the subsequent report (January 2005) following the conviction of Harold Shipman for the murder of fifteen former patients.
- The Victoria Climbié inquiry following the brutal murder of Victoria which was one of the worst cases of child abuse in Britain (Report January 2003).
- The Scarman inquiry (Report 1982) into the Brixton riots of April 1981 which saw relations between the police and the black community at their worst.

Policing by consent

Policing by consent requires the cooperation of the public and to achieve this, the public must have confidence in us and the service we provide.

Policing in partnership

Partnerships between forces and other bodies, particularly local authorities, and work with community groups are vital aspects of policing. For details of partnerships see IND07.

National Community Policing Plan

Each year the Government and Local Authorities allocate millions of pounds to the police service. This money has to be spent in a way which will ensure that the service we deliver to the public is what they want and is delivered efficiently. So how do we decide what to spend the money on and how do we measure how successful we have been?

The answer is a National Community Safety Plan.

Providing value for Money (VFM)

A policing plan shall contain a Value for Money Statement, setting out certain information about the measures a police authority proposes to take to increase the efficiency and productivity of the police force for its area.

Police Standards of Professional Behaviour and police regulations

The Police (Conduct) Regulations 2008 lay down the procedures to be followed in **disciplinary proceedings** for cases of misconduct and apply to all police officers and special constables. The Police (Conduct) Regulations 2008 outline the **Standards of Professional Behaviour** which governs the actions of police officers and special constables.

Disciplinary proceedings for PCSOs are not laid down in any regulations and it is left to the discretion of the chief officer to determine any punishment.

Applying police ethics

Duty of care to the community

You have a common law duty of care which means that you must consider the health and safety of your colleagues and members of the public. You have a

duty of care to all the people you serve, especially those who are vulnerable and unable to help themselves. You should attempt to help them and, if necessary, protect them from themselves and others.

Potential for conflict between organisational and personal ethics

As an officer you may encounter situations that will cause conflict between your personal values/ethics and those of the organisation. You have the difficult job of sometimes having to leave your personal feelings, values and beliefs behind. You will also need to consider your prejudices and stereotyping and not allow these to effect your judgement or actions.

Importance of equality and diversity in police ethics

Prejudice and discrimination are something that will not be tolerated in the police force.

Prejudice - an unfair and unreasonable opinion or feeling, especially when formed without enough thought or knowledge.

Prejudice can lead to discrimination.

Discrimination - to treat a person or particular group of people differently, especially in a worse way from the way in which you treat other people, because of their skin colour, religion or belief, gender, sexual orientation, etc:

As an officer you must remain impartial and free of prejudicial beliefs likely to lead to discrimination.

Building public trust and confidence

As an officer you can help to build trust within the community by using sensitive and appropriate language. This is covered in more detail IND06 (Providing Advice and Support.) Student notes.

Leadership does not just apply to a limited number of senior officers representing leadership in the service. It does not matter whether you are a neighbourhood constable or a superintendent in charge of a division or Basic Command Unit (BCU). Leadership is about behaviour. It is about displaying the

right attributes and attitudes across the service as a whole. In other words it's about everybody having the **integrity, self confidence, commitment** and **resolve** to make a difference to people's lives.

Using your powers and the use of force

There are legal requirements for you to use the least power necessary to achieve necessary, legitimate and lawful aims.

PLAN your actions

In regards to your actions think about:

P - proportionality

L - legality

A - accountability

N - necessity

Common law - use of force

If you have an honestly held belief that you or another are in imminent danger, you may use such force as is reasonable and necessary to avert that danger.

Article 2, European Convention on Human Rights

All force should be used proportionally in line with Article 2 of the ECHR:

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:
 - (a) in defence of any person from unlawful violence;
 - (b) in order to effect a lawful arrest or to prevent escape of a person lawfully detained;
 - (c) in action lawfully taken for the purpose of quelling a riot or insurrection

Section 3 of the Criminal Law Act 1967 and Physical Force

Criminal Law Act 1967 states:

“A person may use such force as is reasonable in the circumstances in the prevention of crime, or in the effecting or assisting in the lawful arrest of offenders or suspected offenders or persons unlawfully at large.”

The responsibility for the use of force rests with you, and you will be answerable to both criminal and civil courts.

Fair decision making

You must balance decision making with fairness. Always deal with people in an ethical manner recognising their individual needs. A good way to make decisions is as follows:

1. Identify the situation
2. Decide what you need to achieve
3. Decide what factors need to be considered
4. Identify the various courses of action
5. Identify which is the best and why
6. Implement that course of action

This is a simple outline to help you for now. You will learn about the conflict management model and a decision making model later in your initial training.

Remember to record your decisions and how you made them.

Upholding the law and partnership working

No-one is above the law and it is imperative that you work within the law and procedures at all times, using minimal force and exercising self-control and tolerance. The police are only one of the agencies with a remit to improve levels of safety and reassurance. Partnerships between forces and other bodies, particularly local authorities, and work with community groups are vital, aspects of policing.

Roles and Responsibilities

Upholding the Law

Let us look at the 'Statement of Common Purpose and Values'. The purpose of the Police Service is to uphold the law fairly and firmly:

- to prevent crime
- to pursue and bring to justice those who break the law
- to keep the Queen's Peace
- to protect, help and reassure the community
- to be seen to do all this with integrity, common sense and sound judgement

Foster People's Equality, Diversity and Rights (IND02) v1.00

Valuing equality and diversity is crucially important to the development of policing in the 21st century. The importance of equality and diversity learning and development to the work of the police service cannot be underestimated. Consequently, you should be able to identify the benefits of equality and diversity in the workplace and the community and understand the importance of promoting anti-discriminatory practice, equality and diversity.

People's rights and their responsibilities

Equality and Diversity refers to the differences which exist between groups of people and individuals according to their ethnic or national groups, socio-economic status, gender, language, religion or belief, sexual orientation, age and whether a person has a disability. Valuing diversity is about recognising the differences between people and utilising those differences more effectively.

The benefits of diversity in the workplace

Understanding the impact of backgrounds, beliefs and abilities has distinct advantages especially to the police service which serves the whole community:

- enhanced reputation
- greater range of knowledge
- better understanding of staff and community needs
- more flexibility

- recruiting of best people
- elimination of discrimination and unfair treatment
- better intelligence gathering
- fewer grievances

The police service cannot afford to act or appear to act in ways which exclude or **discriminate** against minority groups. Effective policing can only be delivered through the fair treatment of everyone.

Types of discrimination

Direct discrimination: When a person is treated less favourably than another person is or would be treated in the same or similar circumstances.

Indirect discrimination: When the employer imposes an apparently neutral provision, condition or practice as a condition of employment that would put persons of one group at a particular disadvantage compared to persons of another group.

Institutional discrimination: occurs when an organisation has practices or policies which, often inadvertently, discriminate against people because of their ethnic or national group, age, sexual orientation, religion, disability or gender.

Equal opportunities

Equal Opportunities are a commitment to eliminating unfairness, discrimination, harassment and bullying in the workplace. There is also a commitment as a public service for the police to demonstrate a commitment to these principles and to challenge behaviour which is unacceptable.

Positive discrimination: rests on the premise that past discrimination can only be reversed by policies that compensate past losers. Positive discrimination is unlawful.

Positive Action: is a process permitted by law to overcome long-standing disadvantages experienced by people from a minority group or background.

Laws which prohibit discrimination:

- Sex Discrimination Act 1975
- Race Relations Act 1976
- Sex Discrimination Act 1986
- Disability Discrimination Act 1995
- Human Rights Act 1998
- Crime and Disorder Act 1998
- Stephen Lawrence Enquiry and Disability Rights Commission Act 1999
- Disability Rights Commission Act 1999
- Race Relations (Amendment) Act 2000
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Age) Regulations 2006

The Benefits of Diversity in the Workplace and the Community

A community may be a group of people who share a common interest and can be complex.

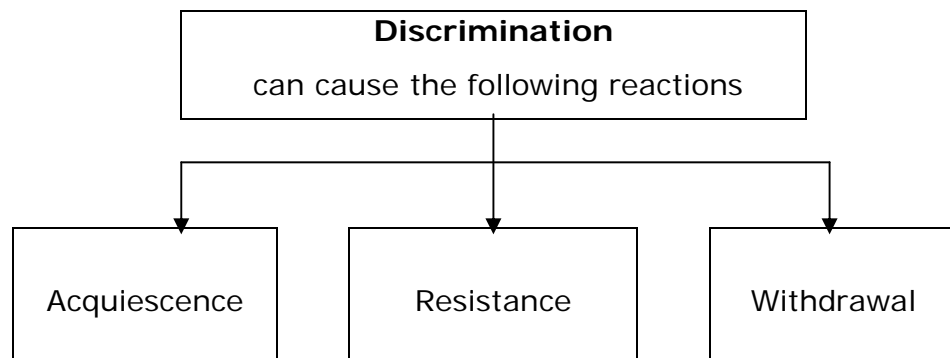
Multicultural Britain - Modern Britain contains many cultural influences that come from the different ethnic or national groups, religions and other diverse elements that make up the whole.

Dealing with Discrimination and Promoting Anti-discriminatory Practice, Equality and Diversity

We all have prejudices. If we are aware of them and if we want to, we can start to challenge their validity, but it can be hard because our views are often reinforced by our colleagues or friends, the television we watch and the newspapers we read. When we are not aware of our prejudices and are in a position of power (such as the police) discrimination can occur.

The impact of discrimination

There are many different ways that people may react when they are feeling discriminated against:



The impact of discrimination on a community

The impact of discrimination is not just restricted to one person. If one person in a community suffers discrimination or is treated badly, other members of the same community may feel threatened. This occurs particularly if the victim belongs to a group where there is considerable community cohesion. A very different form of discrimination occurs when a member of the dominant group chooses to deal with an incident differently because they are fearful of being accused of discriminating.

If we do not challenge people about their behaviour, we do not give them the chance to learn.

The Complaints System

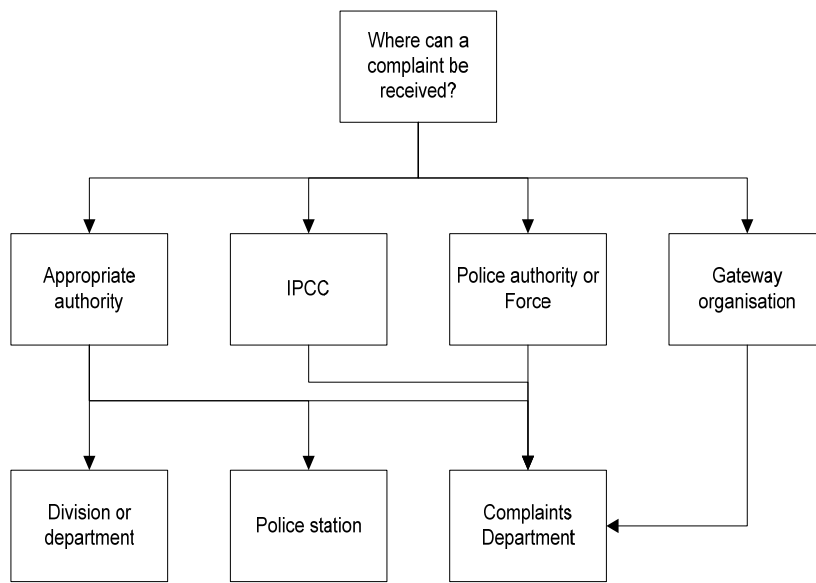
The Police Reform Act 2002 provides a statutory framework for the handling of complaints against 'persons serving with the police'.

Part 2 of the Police Reform Act 2002 established the Independent Police Complaints Commission (IPCC). The IPCC has a statutory duty of ensuring that suitable arrangements are in place for dealing with complaints or allegations of misconduct against any person serving with the police in England and Wales.

These persons include:

- a member of a police force
- employee of a police authority
- special constable

How is the complaint made?



Outcomes

Among the outcomes of both local resolution and other types of investigation are:

- apology by the police force
- an explanation
- change in policy or procedure
- referral to CPS
- disciplinary action

What is hate crime?

Any hate incident which constitutes a criminal offence, perceived by the victim or any other person, as being motivated by prejudice or hate.

Anyone can be a victim of hate crime. Racist and homophobic crimes are known by most people but, in addition, groups which might also be subject to hate crime include:

- faith groups and groups within faiths
- asylum seekers and refugees
- the homeless
- people with disabilities

The police service is committed to giving all victims of crime a professional and sensitive service. Victims of hate crime will often require and deserve an enhanced response.

Reporting procedures for hate crime incidents

Every identified hate crime incident should be recorded on force crime systems and allocated a unique reference number.

Confidentiality of information will depend on the circumstances in which it was acquired and the nature of the information. You are bound by certain legislation, for example, the Data Protection Act 1998 protects personal information held on computers, and in relevant filing systems and the Criminal Procedure and Investigations Act 1996 covers disclosure of material obtained during criminal investigations since 1 April 1997. Even if there is no legislative protection, you may still be bound by the Official Secrets Act 1989.

The Management of Police information (MOPI) 2006 introduced processes that determine handling information and data.

The Freedom of Information Act (FOI) 2000 gives unprecedented levels of access to all records held by public authorities. Public authorities are defined as an 'authority exercising public functions'. 'Information' means information recorded in any form.

Remember- If you're recording it, someone, someday may be asking to look at it. Therefore, the information you record should be:

- Factual
- Not excessive
- Legible
- Evidenced
- Relevant and necessary
- Consistent with the promotion of equality and diversity

How to report misconduct

There are a number of ways that you can do this:

- report direct to line manager
- confidential telephone line
- staff associations and trade unions
- direct to complaints and discipline
- direct to internal audit
- Crimestoppers

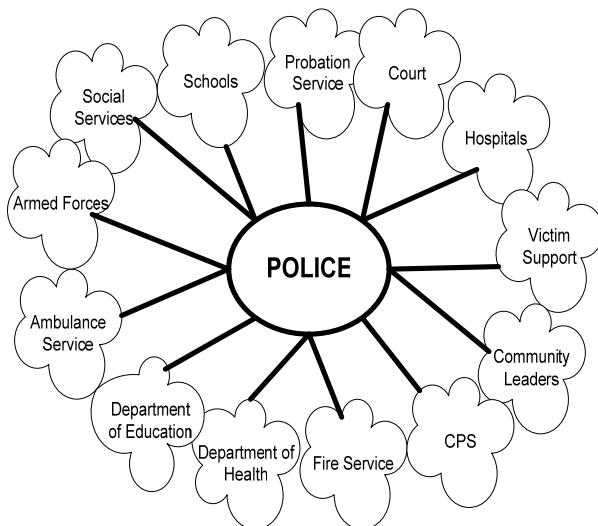
The Protective Marking Scheme

This is the method by which the originator of an information asset indicates to others the levels of protection required when handling the asset in question. There are five levels of Protective Marking that can be applied to information assets, depending on the degree of sensitivity involved:

PROTECT / RESTRICTED / CONFIDENTIAL / SECRET / TOP SECRET

Disclosing Information to Others

The decision to share information with an organisation must be made by a suitably qualified individual. As well as passing information to other officers and police staff, we may need to share information with other agencies:



The Management of Police Information will detail what the circumstances may be in which information is shared.

Develop one's own knowledge and practice (IND03) v1.00

In these notes you will look at your own values and beliefs, where they may come from and how they can affect the way you perceive people. You will look at how you learn and factors that can affect your learning.

Reflect on your own values and beliefs

Our attitudes, values, beliefs and prejudices all have an influencing effect on our behaviour and this affects our performance. It is important that we know what they are and where they come from.

Our opinions often change when we get to know people better. Some things that may affect your attitudes, values or beliefs are:

- politics
- school
- friends
- religion
- parents
- family
- culture
- music

When you meet someone with a different appearance to yourself, your judgement may be influenced by the characteristic that makes them appear so different. Over time opinions such as these tend to become fixed as attitudes and values.

As a member of the police service it is your responsibility to be aware of these initial assumptions and to make sure that they do not affect or prejudice the way you behave. Otherwise your prejudice may cause you to discriminate against people.

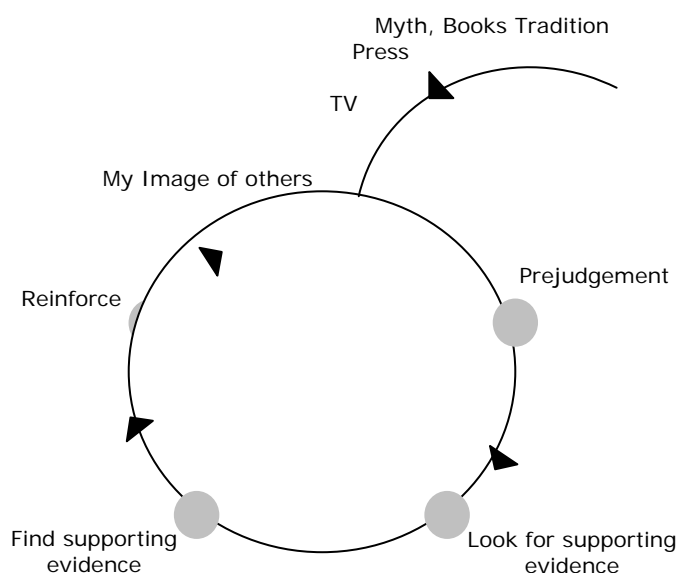
We may tend to see the world through the filter of our attitudes and values. It's all too easy to forget that others do exactly the same - but with different attitudes and values. These will affect our actions and reactions to other people, in turn affecting our thoughts, feelings and behaviours through social encounters.

Betari's Box



Betari's box illustrates a relationship between attitudes and behaviour. It suggests that my attitude affects my behaviour, which in turn affects your attitude and your behaviour. For example if you displayed an aggressive manner towards a member of the public then they may interpret this in a certain way. This subsequently affects their attitude, either because they are persuaded by your reasoning or react to what they would consider unreasonable behaviour by you. And again the reverse is true, in relation to your interpretation of the member of the public's behaviour which will affect your attitude and behaviour.

It works like this: If I allow my values and attitudes to influence me, I will look in any situation for evidence which reinforces my views. I am sure to find it, even if I have to ignore other, contradictory evidence. In this way my values and attitudes are reinforced. Here is a diagram of how your attitudes and values can be reinforced:



Inevitably our values and beliefs affect our practices and how we work with others.

Improving the way you work

What are learning styles? There are many different theories about how people learn, but they all share a recognition that different people prefer to learn in different ways. To give a simplified overview, learning style theories cover three main aspects of how people learn:

- How knowledge is perceived (taken in)
- How knowledge is processed (made sense of)
- How knowledge is organised and presented (put back out)

Perceiving information

When we gather information from the world around us (including the information needed for studying), we employ all five of our senses. But some of us employ certain senses more than others, especially when studying. Neuro-Linguistic Programming (NLP) recognises the importance of these learning preferences:

- **Visual** (sight - including reading and pictorial images)
- **Auditory** (hearing - including speech, music, sound)
- **Kinaesthetic** (sensations - including touch, temperature, movement and emotions)
- **Olfactory** (sense of smell) and **Gustatory** (sense of taste)

Processing information

Once knowledge is acquired (by listening, experimenting, reading, etc.) then it is processed mentally, as people think about it, filter it and memorise it. Most people will have a natural preference for how they:

- grasp information - preferring either to deal with -
 - abstract concepts and generalisations
 - concrete, practical examples
- filter and order information - preferring either to deal with knowledge -
 - in a logical, sequential way (build up a picture, a step at a time)
 - with an overview first (show the big picture first, then fill in the details)
- engage with information, preferring either to use -
 - active experimentation
 - reflective observation

One learning style theory related to processing information is that of Honey and Mumford (1982). They devised a self-test, which indicates whether a learner is predominantly an activist, a reflector, a theorist, or a pragmatist. There are websites where you can take a test, but there is usually a charge for this service. See: <http://www.peterhoney.com>

Organising and presenting information

Finally, there is the issue of how you choose to present information to others. Everyone will have a preference for how they -

- organise information: by overview or with detailed and logical analysis
- present information: verbally or using images

Please remember with learning styles, none are right or wrong, better or worse; it is about how you learn. Identifying your preferred style will help you decide how best to undertake any learning activity.

Effectively challenge the work of others

If you were performing well at work...how would you know? Feedback is one of the main ways we get information about our performance.

The three main functions of feedback are to:

- provide motivation to continue with a task
- provide knowledge about the results of behaviour
- act as reinforcement, so that the person continues to perform well

Good feedback is:

- timely
- specific
- respectful
- negotiated
- constructive

Remember

When giving feedback it is important to remember:

- people may inaccurately interpret feedback - check they have understood

- what may have been intended by the sender to be positive can be misconstrued as negative or even totally ignored
- when people receive feedback they may miss important verbal and non-verbal signals

Monitor changes made

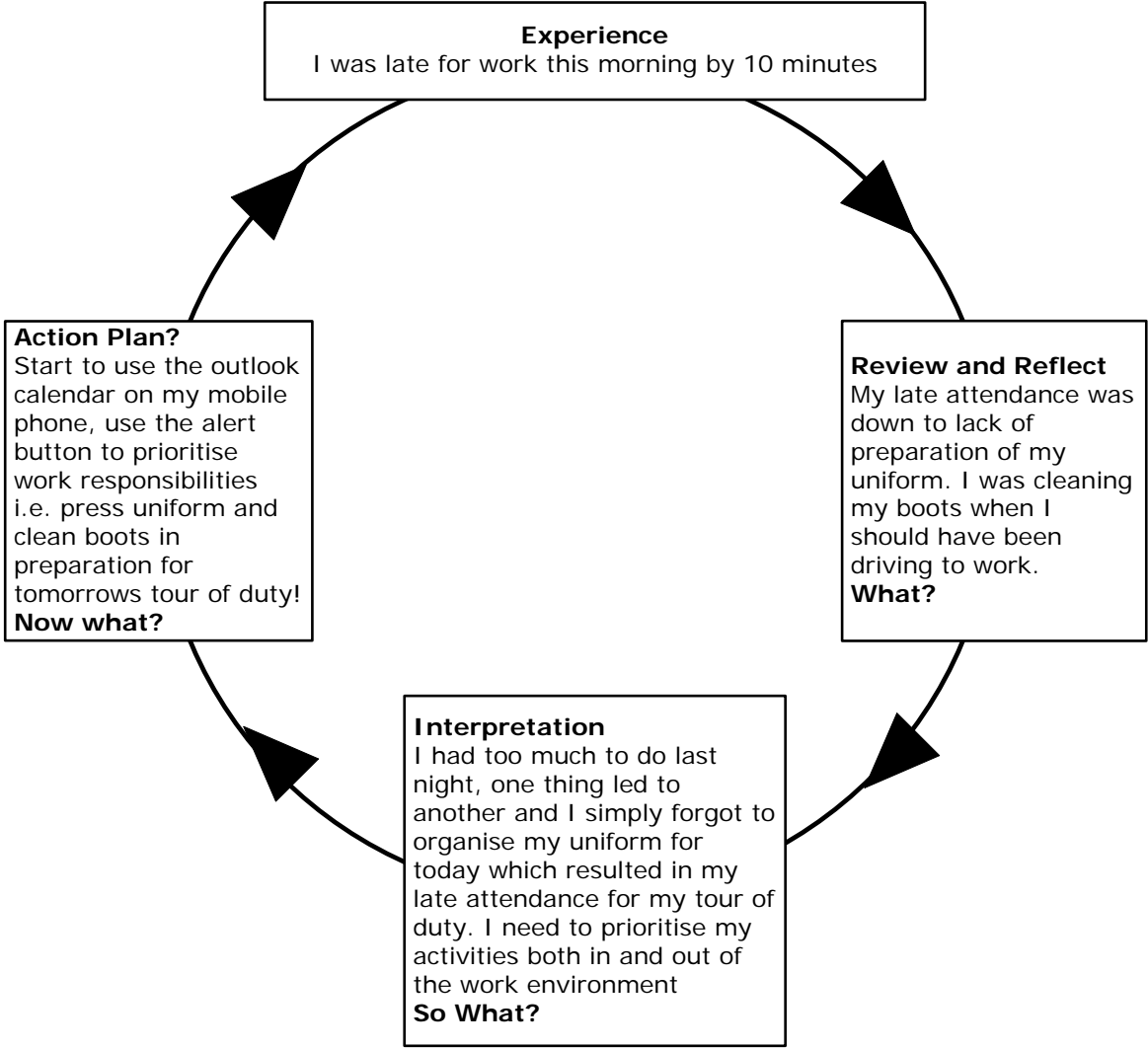
Reflection, as you have read, is a major component of learning. Some people may find it difficult to examine their own thoughts and feelings and even more so to commit them to paper. This is the perfect way to use your reflective diary. Your learning diary should include anything that you want it to. Remember it is your record of the examination of your thoughts.

You should think critically about your experiences, and write as full an account as possible in the reflective narrative. Points to include are:

- What happened?
- In what sequence did things occur?
- How did you respond?
- What was the reaction of other people involved?
- Why do you think this happened?
- What would you do differently (and/or better) next time? How will you put this into practice?

The Experiential Learning Cycle

Example: 'I was late for work by 10 minutes, the morning briefing had started.'



Develop Effective Relationships with Colleagues (IND04)

v1.02

Developing effective relationships with anyone, including your colleagues, has a lot to do with effective communication, being aware of your frame of reference and being able to effectively manage conflict.

Our 'frame of reference' or 'way of seeing the world' is influenced by many factors, one of the most powerful being our cultural background. Your own frame of reference may be influenced by:

Personally, your:

- education
- religion
- family and upbringing
- exposure to the media
- experiences in life
- goals and ambitions

Professionally:

- police policy
- colleagues' views
- local knowledge of the area in which you will work

If sense is to be made of a situation and the communication is to be understood, you must keep both frames of reference in mind, yours and the person you are communicating with.

Communication is a two-way process

In any transaction, one person (the **sender**) puts over a **message** to another person (the **receiver**) who in turn becomes the **sender** of a return **message** to the original person, who is now the **receiver**. The communication process/cycle looks like this: Send → Receive → Understand → Reply → (and back to send). If the communication doesn't work, this can be due to a fault in any part of that circuit. As you have already found out, the signal will be affected by the frame of reference of the sender. It may also be affected by '**noise**'.

Noise can take the form of:

- **Physical noise** (aircraft, traffic, air conditioning, crowds etc)
- **Psychological noise** (frame of reference, prejudices, stereotypes, closed mindedness)
- **Semantic noise** (where the words of the message are not understood)

Six ways in which a communication transaction can take place:

Verbal – words; intonation; word spacers

Non-verbal – positions and gestures; distance; dress and ornaments

The language we use can be a barrier to effective communication if we do not think about what we say and the way we say it. So use language appropriate to the person you are addressing without talking down to them. Avoid technical words, jargon and acronyms. Do not try and impress your listeners by using unfamiliar or complicated language and use inclusive words such as police officer not police man.

Operating within a team

A policing team includes Police Constables, Special Constables, and Police Community Support Officers (PCSOs).

These are things that you can do which are likely to build and maintain respect between team members:

- understand your own role in a team
- actively take part in team tasks in the workplace
- develop mutual trust and confidence in others
- willingly take on unpopular or routine tasks
- contribute to team objectives no matter what the direct personal benefit may be
- acknowledge that there is often a need to be a member of more than one team
- make time to get to know people
- be open and approachable
- co-operate with and support others
- offer to help other people
- ask for and accept help when needed

Offering and seeking advice and support

The typical symptoms of stress fall into two categories; behavioural and physical. You need to remain alert to the signs of stress in yourself; and your colleagues. Here are some of the typical symptoms:

Behavioural	Physical
<ul style="list-style-type: none"> • erratic behaviour • indecisiveness • absenteeism • irritability • deteriorating performance • inability to delegate • become accident prone • poor relationships 	<ul style="list-style-type: none"> • increased dependency on tobacco, alcohol or other stimuli • anxiety • digestive problems • raised blood pressure • palpitations • disturbed sleep patterns

There are many suggested ways of helping to reduce stress. Always seek advice if you are concerned about your health or well-being rather than worrying alone. Your own doctor or the force occupational health department may be able to refer you to appropriate sources of help.

Managing conflict

The key to managing conflict effectively is to learn the skills necessary to become a good conflict manager. A good model to use is the CUDSA five step approach to resolving conflict:

- C** - confront the conflict and acknowledge that you want to resolve it
- U** - understand each other's position
- D** - define the problem and accept that both of you may need to compromise
- S** - search for, evaluate and work together towards alternative solutions
- A** - agree upon the best solution and implement it

The consequences of poorly handled team conflict are a lowering of team energy and a disruption to healthy team relationships that can create an environment of fear. It can also lead to yourself and colleagues not accomplishing what you are capable of, both personally and professionally.

A conflict situation in which one person wins and the other loses will inevitably store problems for future relationships. So remember that a win-win result is the ideal resolution to any conflict.

Develop effective relationships with supervisors

Like in any job/career, you will not always agree with your manager. If you have a disagreement that you cannot resolve with your line manager, you can go through the grievance or fairness at work procedure.

The things that we have already mentioned that are likely to build and maintain respect between team members are equally important to your relationship with your supervisor. In addition, your supervisor(s) will require you to provide them



with accurate and timely information about emerging threats and opportunities in your policing area. For a crime to occur you need three elements. As a proactive officer you need to think about what you can do to remove one of those elements thereby preventing crime.

Falling crime rates can reduce the pressure on all staff allowing more time to concentrate on proactive work.

Time spent on proactive policing, reducing opportunities for crime and identifying offenders has a further impact on crime rates. Being part of a team that work together to reduce crime can also be a positive way to develop effective relationships with colleagues.

Ensure your own actions reduce the risk to health and safety (IND05) v1.00

The health and safety of all staff working for the service is of the highest importance. Any measures aimed at improving the safety of our working environment should be given high priority. Failing to take action when you become aware of a risk could result in injury to yourself and others. The legislation that governs your health and safety at work is the Health and Safety at Work Act 1974 as amended by the Police (Health & Safety) Act, 1997. **It applies to all employees.**

It is the duty of all employees whilst at work:

- to take reasonable care of their own health and safety and that of others who may be affected by the employees' acts or omissions, and
- to co-operate with their employer so far as is necessary to enable the employer to fulfil their duties in relation to health and safety

No person shall intentionally or recklessly interfere with or misuse anything provided in the interests of health, safety or welfare.

Risk assessment

The action you take will be based on the severity of any possible injury, and probability of the accident occurring. It is not enough to leave it to someone else thinking that they might deal with it. Remember, if you think it, you must do it.

Accident	an unplanned event which results in damage or injury, including assault, occurring through a combination of causes
Hazard	something with potential to cause harm
Harm	physical injury or ill-health to those exposed to a hazard
Risk	the likelihood that harm from a particular hazard is realised
Danger	the exposure to harm or damage

Writing a Risk Assessment

A risk assessment involves taking action at a number of stages. Those actions are:

- looking for hazards
- asking 'Who might be at harm?'
- evaluating risks and assess existing procedures
- recording findings, and
- reviewing and revising any previous assessment

Risk and response levels

Once you have decided upon the assigned risk you will need to record the result on the risk assessment form, and take any action deemed necessary. That action is pre-determined in health and safety guidelines as follows:

Insignificant	No action needed?
Low	Take action within a week?
Medium	Take action the same day?
High	Stop the activity, take action?
Very High	Stop the activity, take immediate action?

Dynamic Risk Assessment

Your force may train you to use a dynamic risk assessment model for you to use when operational. This will help you to consider the hazards and risks when a situation occurs that requires immediate action. For example moving boxes you see blocking a fire door or deciding not to pursue an offender onto a roof. Dynamic risk assessment entails continuous monitoring of all situations to ensure maximum safety for all.

Areas for caution

When making your risk assessment you may also need to take into consideration potential chemicals.



Corrosive



Dangerous for
the environment



Explosive



Very toxic



Harmful/Irritant



Oxidising



Highly or extremely flammable

Control of Substances Hazardous to Health (COSHH)

One of your personal responsibilities is 'to take reasonable care of your own health and safety and that of others'. COSHH is a useful tool of good management which sets eight basic measures that employers, and sometimes employees, must take to take reasonable care of your own and other's safety.

Manual handling – What are my duties?

So far as is reasonably practicable, you must avoid the need for hazardous handling of objects by assessing the risk of injury to yourself and or others and following a few basic rules to reduce such risks.



Consider automation - can you use mechanisation to lift the object, for example a truck? If it is a person, could you use a stretcher or wheelchair?

Think before lifting/handling - plan the lift.
Can handling aids be used?



Adopt a stable position - the feet should be apart with one leg slightly forward to maintain balance (alongside the load, if it is on the ground).



Keep the load close to your waist - keep the load close to your body for as long as possible whilst lifting.

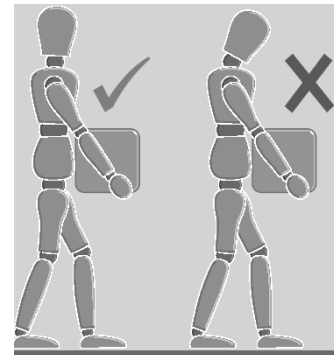
Get a good hold - where possible the load should be hugged as close as possible to the body. This may be better than gripping it tightly with hands only.

Start in a good posture - at the start of the lift, slight bending of the back, hips and knees is preferable to fully flexing the back (stooping) or fully flexing the hips and knees (squatting).

Do not flex the back any further while lifting - this can happen if the legs begin to straighten before starting to raise the load.

Avoid twisting the back or leaning sideways - especially whilst the back is bent; shoulders should be kept level and facing in the same direction as the hips. Turning by moving the feet is better than twisting and lifting at the same time.

Keep the head up when handling - look ahead, not down at the load, once it has been securely picked up.



Move smoothly - the load should not be jerked or snatched as this can make it harder to keep control and can increase the risk of injury.

Don't lift or handle more than can be easily managed - there is a difference between what people can lift and what they can safely lift. If in doubt, seek advice or get help.

Assessing needs of individuals, providing advice and support (IND06) v1.02

This section deals with the initial contact and support that is provided to individuals affected by crime, offending or anti-social behaviour. The support is likely to include both practical and emotional support, most often through listening and reassuring.

The individual to whom you are providing support may be a victim/ survivor/ witness of a crime or of offending anti-social behaviour, or the family and friends of a victim, especially in the case of bereaved families.

Initial support

In order to encourage people who have been affected by crime, offending or anti-social behaviour to tell you their immediate needs it is vital that you gain their trust. You must develop rapport, working at their pace, particularly when dealing with vulnerable individuals. This needs excellent **communication skills**.

Communication must be a two-way process. Communication is a transaction between two or more people and most transactions last for only a short time. In some situations your time may be limited and you may have to use all your communication skills in order to build a rapport with someone in a short period of time.

All people who communicate, place a '**frame of reference**' around the situation. This 'frame of reference' or 'way of seeing the world' is influenced by many factors. One of the most powerful of these factors is cultural background.

Some general guidelines when communicating with the public

- be aware that the individual may not want to talk to you in public view
- try not to be overheard by others and use an approach which does not attract attention,
- be aware of audiences, sometimes a crowd may take sides and may even become aggressive, resulting in a public order situation,

- remain calm and controlled in the face of aggression. If force is used against you, respond only with such force as is necessary,
- if you have made a genuine mistake, apologise,
- it is important that you clearly explain your force's confidentiality policy,
- explain to them how the Data Protection Act 1998 affects them and the information that you are taking from them,
- inform them of how the information will be recorded and who will have access to it.

How you leave or exit a transaction with a member of the public is as important as how you start it. Leaving an encounter without concluding it may undermine the whole process. Broadly speaking there are four options:

1. Formal or informal enforcement
2. Resolution of the problem
3. Assistance with solving a problem
4. Referral to other agencies

Encouraging people to express their immediate needs

Once you have built a rapport with a person and gained their trust they will be much more likely to discuss their immediate needs, fears and concerns with you.

Remember, you can offer the best or most appropriate support if you know what is needed. Ask them what they need. Depending on the situation the person may not know what resources are available to them. Inform the person of what is available to them as it may be a case of their not knowing what they need!

Providing initial support

The effects of crime, offending and anti-social behaviour

Crime, offending or anti-social behaviour can affect people in many different ways. How a person reacts to crime, offending or anti-social behaviour depends on:

- the type of offence
- whether they knew the person who committed the offence
- the support they get from their family, friends, the police and other people they come in contact with

- things that have happened to them in the past – such as other hurtful events

Most victims need support, assistance or reassurance. While you can give immediate help, it is difficult for you to maintain support over a long period. There are agencies that can offer services which the police service sometimes cannot. As a matter of course, the police refer all victims of crime to the **Victim Support Service**.

Your responsibility

Every victim of crime should be given a copy of the Home Office leaflet '**Victims of Crime**'. You should carry some of these leaflets around with you.

It is your duty to answer victims' and witnesses' queries to the best of your ability and give any further advice as necessary. Keeping people informed of what is happening is required under the Code of Practice for the Victims of Crime.

Vulnerable witnesses

Witnesses may also need advice and support. Certain classes of witnesses have particular difficulties, either because of age, special needs, personal circumstances, or because of their fear of intimidation. Children, rape victims, witnesses with learning disabilities or who experience mental ill health may find the criminal justice process especially stressful and sometimes traumatic.

Certain behavioural indicators or physical characteristics may assist you to identify vulnerable witnesses. Social circumstances may be another indication of a witness's vulnerability. Remember, it is important to take the 'context' into account. Some individuals' behaviour may be affected by outside influences, such as drugs, alcohol, anger, fear or frustration. A distressed person trying to communicate by sign language may appear aggressive to the unaware.

If you have identified a witness who is vulnerable or intimidated you must complete a form MG2.

Intimidated witnesses

Intimidated witnesses are defined by Section 17 of the Youth Justice and Criminal Evidence Act 1999 as:

“...anyone whose quality of evidence is likely to be diminished by reason of fear or distress in connection with testifying in proceedings excluding the accused.”

As with vulnerable witnesses there are certain indicators that might help you identify an intimidated witness. These are related to what the witness says and how they behave, the incident/alleged offence and the alleged offender.

Indicators need to be taken in context.

The Youth Justice and Criminal Evidence Act 1999 enables the following ‘**special measures**’ to be made available to vulnerable and intimidated witnesses in Crown Courts:

- screening the witness from the accused
- giving evidence by means of a live TV link
- giving evidence in private in cases involving sex offences or intimidation
- the removal of wigs and gowns
- the use of video recorded interviews to be admitted as evidence-in-chief
- video recorded cross-examination or re-examination (when facilities are available)
- examination of the witness through an intermediary (when facilities are available)
- aids to communication

You will need to find out the views of the witness so that the CPS is fully aware of them when they consider making an application for special measures. The witness should be given an account of the nature and the relative benefits and limitations of each special measure. The witness should also be made aware that whilst they are being given a choice of options, they may not necessarily be granted the option(s) of their choice.

Witness Service

There is a Witness Service in every Crown Court centre. The Witness Service is run by Victim Support and is independent of the court, police and CPS. They support witnesses and their families and can arrange for them to visit a courtroom before they give evidence and provide information on court proceedings.

Recommendations for supporting victims and witnesses of anti-social behaviour

Anti-social behaviour differs from other forms of crime in a number of important respects. One of the key themes is the fear of intimidation and reprisals and it is not uncommon for people to try to resolve problems themselves before seeking help from the police. When you receive a report of anti-social behaviour you need to ensure that:

- clear local information is provided on how victims and witnesses can report incidents, what action will be taken to deal with different types of incidents and the availability of sources of help
- people reporting incidents need to be confident that the incident will be investigated and that their complaint will be taken seriously, that information is provided about what action will be taken and what will happen next
- victims and witnesses should be provided with a single point of contact from reporting the incident all the way through the process to court
- at the first point of contact a victim and witness 'needs assessment' should be undertaken to establish what type of support is required. In particular you should address witnesses' and victims' fear of intimidation and retaliation

If investigations of anti-social behaviour are going to lead to successful legal action it is vitally important that any fear of reprisal is addressed.

Assessing further support needs

Long-term needs of a victim or witness are as equally important as their initial requirements. Some victims or witnesses may suffer from **post-traumatic stress disorder**. The symptoms of this disorder are different for everyone but can be very debilitating.

Victims may also be eligible for compensation. The court may order an offender who has been found guilty to pay compensation, or if injured as a result of a violent crime, they may be able to get compensation under the Criminal Injuries Compensation Scheme.

Information about the release of prisoners

In life sentence cases and other cases involving serious sexual or violent offences, the probation service will get in touch with the victim within two months of the sentence being passed to ask if the victim wants to be told about any plans for releasing the prisoner. In addition, Section 35 of the Domestic Violence, Crime and Victims Act 2004 states that information can be requested by the victim in relation to sexual or violent offences for which the offender has received a sentence of 12 months or more.

Completing documentation

It is important to keep accurate records and documentation of your work but try to strike a balance between note taking and maintaining good communication with the individual.

- accurate documentation of the expressed needs and wishes of an individual increases their confidence that their needs are being taken seriously
- provides you with a record that you can refer to later in order to ensure nothing is overlooked
- having a written record of agreements reached and any resultant action taken is very important in the unfortunate situation of a complaint being made by the individual that their needs were not addressed

- in the case of an inquiry, having written records of the needs of the individual, any agreements reached and support offered is vital for the smooth progress of the inquiry

Victim personal statements are another important means of documenting what a victim wants to say.

Develop effective partnerships with members of the community and other agencies (IND07) v1.00

This section is designed to provide an understanding about communicating with communities in the neighbourhood in which you will be working. It is also about comprehending the wider aspects of your role in relation to community safety. It is about focusing on the needs of the individual and communities that receive and use police services and being responsive to those needs. Citizens must feel that the police and the criminal justice system put them first. These notes will assist you in understanding the needs and purposes of different community groups within the same location and the agencies which support the infrastructure of the neighbourhood.

Making Contact

Arrangements currently exist that can facilitate making contact in communities throughout the country, including:

- community partnerships (or local strategic partnerships)
- community strategies
- community safety partnerships
- citizen-focused policing
- policing priority areas
- neighbourhood policing

Vulnerable and hard to reach or hear communities

Contacting such communities can be more difficult. Understanding and knowledge of such communities, their traditions, faiths, beliefs, cultures, practices, vulnerabilities, etc, can help. Pay attention and try to understand the

needs of those individuals within communities with disabled people, older people, lesbian, gay, bisexual and Trans people community, carers, etc.

Go out and introduce yourself to people in the community. Make yourself **part of the community**. Building partnerships or contacts with other agencies can be key to learning about the community.

Partnerships and other agencies

For the police, partnerships are broadly divided into two groups:

Social Agencies	Investigative Agencies
<ul style="list-style-type: none"> • Department of Health (includes Social Services) • Emergency Services • Department for Children, Schools and Families • Youth Service • Housing Association • Criminal Justice Service 	<ul style="list-style-type: none"> • Her Majesty's Revenue and Customs (HMRC) • Serious Organised Crime Agency (SOCA) • Trading Standards Institute • UK Border Agency

Other partnerships and agencies include internal departments, other forces, local authorities, community groups, media and armed forces.

Guidelines for partnership

1. Clarify your aims and objectives
2. Identify key stakeholders and decide which should be partners and which should just be consulted
3. Get support and agreement from your force before forming partnerships
4. Make informal contact with potential partners to determine attitudes and interests and **their** aims and objectives
5. Plan partnership process over time
6. Use a range of methods to involve people
7. Be open and honest

Suggested organisations for partnership working

- Community Justice Organisation
- Alcohol Concern
- Crime Concern
- NACRO
- Safeguarding Communities, Reducing Offending (SACRO)
- Turning Point
- Addiction
- Equality and Human Rights Commission
- Includem
- Rape Crisis
- SOVA
- Victim Support

Maintain accessibility and develop relationships

Having established contacts within the community, it is very important to maintain dialogue and contact. You should ensure that you are always approachable and adapt your working practices to improve your accessibility, whilst responding to enquiries in a way that supports this.

Developing a relationship will involve recognising and balancing potential conflict between your enforcement and community roles. The five levels of assistance that will help you to do this are listed below:

Information: Tell people what is planned in terms of policing commitment, the accessibility statement, and available resources and how that may affect what the partnerships are aimed at achieving.

Consultation: Help to identify the key problems, offer a number of options and listen to the feedback you get.

Deciding together: Encourage others to provide some additional ideas and options to enable you to decide together.

Acting together: Decide together what is best, forming a partnership to carry it out.

Supporting independent community initiatives: Help others do what they want, perhaps within a framework of available grants, advice and support that is provided by the resource holder.

Establishing trust is also vital to collaborative, effective working relationships within the community. You should seek to establish a relationship based on trust in order to give community members the confidence needed to commit themselves. This will also help you to understand the glue that binds a community together.

Sharing information

One of the major sources of mistrust in the police service within communities is a lack of communication and consultation between the police and community members. Here are some useful points to help prevent this happening in the community that you work:

- encourage residents to ask questions
- give straightforward honest answers without using police jargon to aid understanding and encourage a two-way flow of information
- ensure that you have a good understanding of the community's culture, religion and how they identify with themselves and each other
- encourage individuals, community groups and other agencies to check their understanding of the information that you provide so that you can constantly monitor and check the effectiveness of your own communication methods
- maintain a list of community contacts
- utilise your personal development review to feed back examples of good practice, such as methods that you have found to work well in establishing community contacts

Remember, some information may be highly personal or sensitive. It is your duty to maintain the appropriate confidentiality at all times, although information demonstrating illegal activity will have to be dealt with accordingly. Ensure you abide by the Legislation and guidance provided by the Data Protection Act 1998, the Human Rights Act 1998 and the ACPO (2010) Management of Police Information

Record Making

Making clear and accurate records

There are rules for using your pocket notebook (PNB) in order to make the information that is recorded in it accurate and clear. It is important that the accuracy of information you obtain is maintained and is kept in a professional and logical format. You should consider that any documentation you keep may be subject to disclosure rules under the Criminal Procedure and Investigations Act (CPIA) 1996 if it has relevance to any material gathered during the course of an investigation.

If your PNB is not available, a piece of paper may be used to make notes and the general rules for note taking should be followed. The note should be formally preserved as an exhibit and attached to any subsequent report or statement.

For further information regarding pocket notebooks see LPG 1_4_03 (Documentation).

Administer First Aid (IND09) v1.00

Scene and casualty management

In dealing with a first aid emergency you should remain calm and approach the incident with firmness and authority. Do not allow yourself to be distracted by non-vital activity. You must **ACT**:

Assess the scene
Communicate with control
Treat the casualties

Assess the scene

You should make an initial assessment of the scene. In particular you should consider any danger to yourself or the casualty and whether there are any other people at the scene who can help you. The mnemonic **CHALET** may be useful in helping you to make an assessment.

Casualties	Approximate number of casualties – dead, injured, not injured. How severe are their injuries?
Hazards	Present and potential – fuel spillages, debris, weather conditions, terrain, gas, electricity, chemicals, fire or danger of explosion
Access	Best routes for emergency vehicles and suitable rendezvous (RV) points
Location	Precise location of the incident
Emergency services	What other resources do you require? How can you get them?
Type	Establish with accuracy the type of incident, its extent, numbers of people, vehicles, buildings, etc.

Take action to minimise or eliminate any danger to both yourself and the casualty. Where possible remove the danger from the casualty rather than the casualty from the danger. As a last resort move the casualty.

Communicate with control

Communicate the above information to control. Ensure that they have understood the situation and that help is on its way.

Treat casualties

Where there is more than one casualty, assess them all before treating any.

Use **DRsAB**.

Prioritise and treat the casualty who needs you most. Attend to any unconscious casualties first and ensure that emergency first aid is given without delay. Those casualties who are talking or moving around are usually in a better medical state than those who are quiet and still.

Treatment priorities

A casualty's injuries should be prioritised for treatment in accordance with the list below:

- Airway
- Breathing

The areas below will need to be prioritised in order of severity:

- Bleeding
- Breaks
- Burns
- Body temperature control

Information in respect of each casualty should be given to ambulance personnel upon their arrival. In particular the nature of the casualty's injury, their breathing and pulse rates and details of any treatment given to them. You may also be able to assist ambulance personnel by performing simple tasks such as holding drips or supporting limbs or by controlling traffic and bystanders.

Major incidents

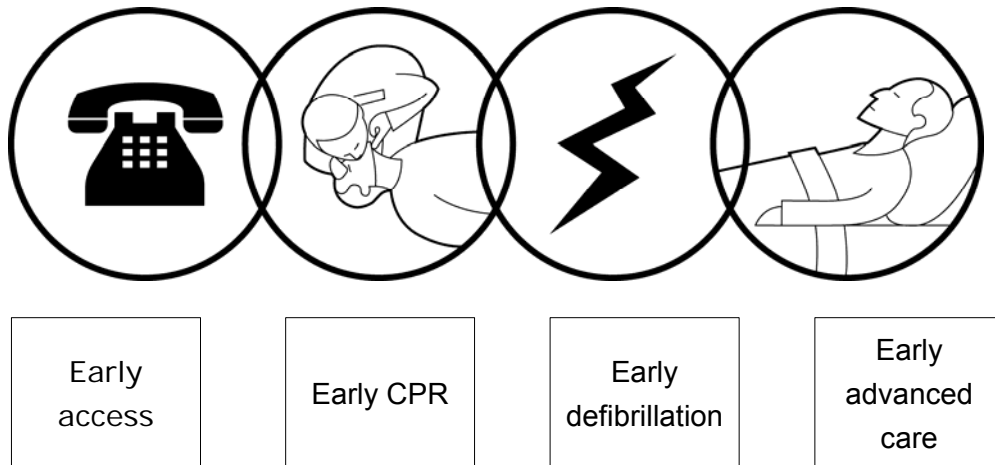
In a major incident you must take control of the situation until a more senior officer takes over. A calm and methodical approach is essential. The mnemonic **SCENE** may help you to structure your response.

Seal area	Seal off the area. Make rescue your priority. Ensure that the area is clearly marked and safe. Establish cordons where necessary and provide access routes. Control persons entering the scene. Preserve evidence.
Control	Establish a control point and if necessary a joint emergency service control. Ensure that a log is maintained.
Emergency Services	Coordinate their arrival at the scene: if necessary provide escorts.
Notify	Notify the control room of your actions. Be accurate, clear and concise. Be prepared to brief a more senior officer.
Evacuate	Rescue/evacuate the injured. If the location still carries risk, leave the dead and evacuate the scene.

Triage is the process by which the degree of urgency for treatment is assigned. In general, serious casualties should be marked for immediate treatment. Walking wounded should be evacuated from the scene. The obviously dead should be left where they are. Details should be recorded of all those involved and casualties labelled. Bystanders should be alerted to any risk or evacuated.

The chain of survival

The chain of survival consists of four critical links:



Basic Life Support (BLS) protocols

- Make the environment safe.
- Your personal safety has priority.
- Turn off items that are connected to electrical power – create a safe environment by moving the hazardous item from the casualty or moving the casualty from the hazard.
- Be alert to the risk of attack from the casualty or from others.

Don't

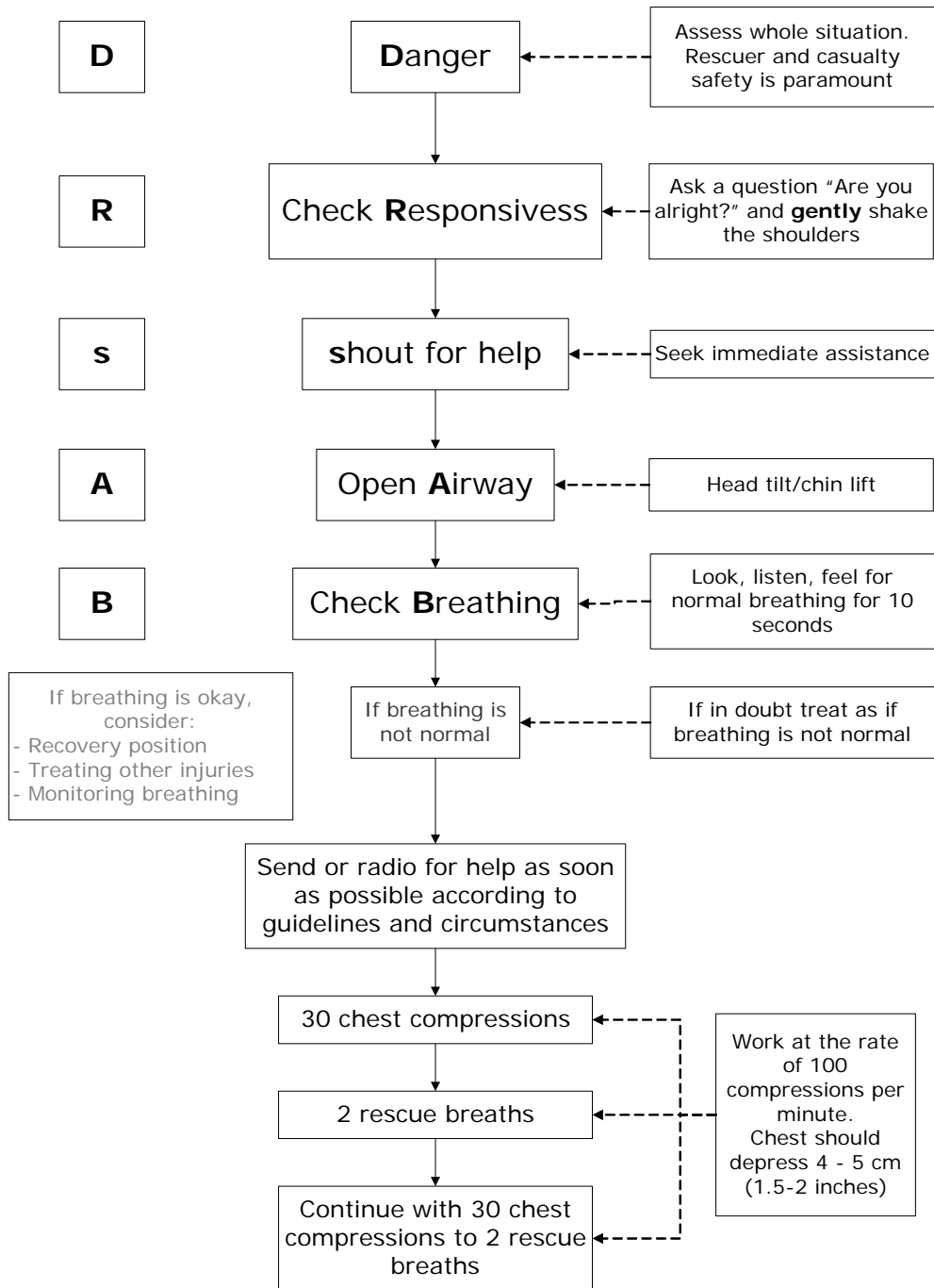
- Take unnecessary risks.
- Try to do too much on your own.

Do

- Use other people to assist you where necessary, e.g. to call the emergency services; to keep others away from the scene; to control bleeding or to support a limb. This may help others to feel that they are assisting in a positive manner.
- Give clear instructions and always check that they have been carried out.

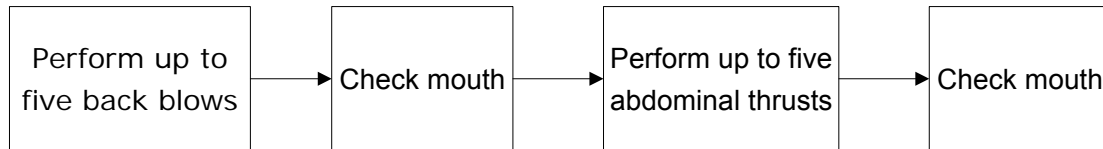
- Keep calm, for excitement is quickly communicated to the casualty and to others.

Adult BLS summary



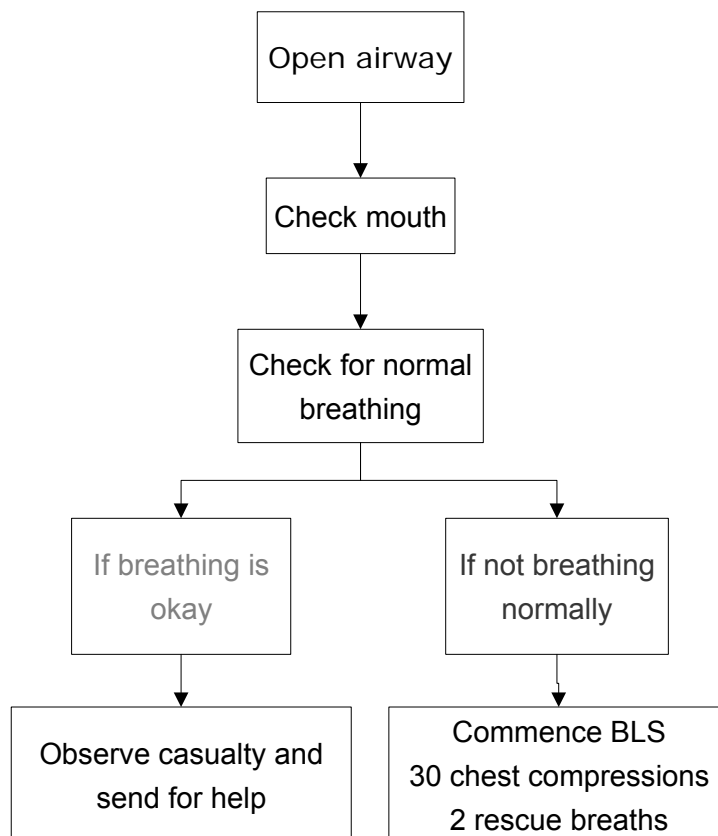
Adult choking protocols summaries

If the casualty is breathing encourage him/her to continue coughing. If the casualty shows signs of becoming weak/exhausted or signs of cyanosis, remove any obvious debris from the mouth and follow the protocol below:



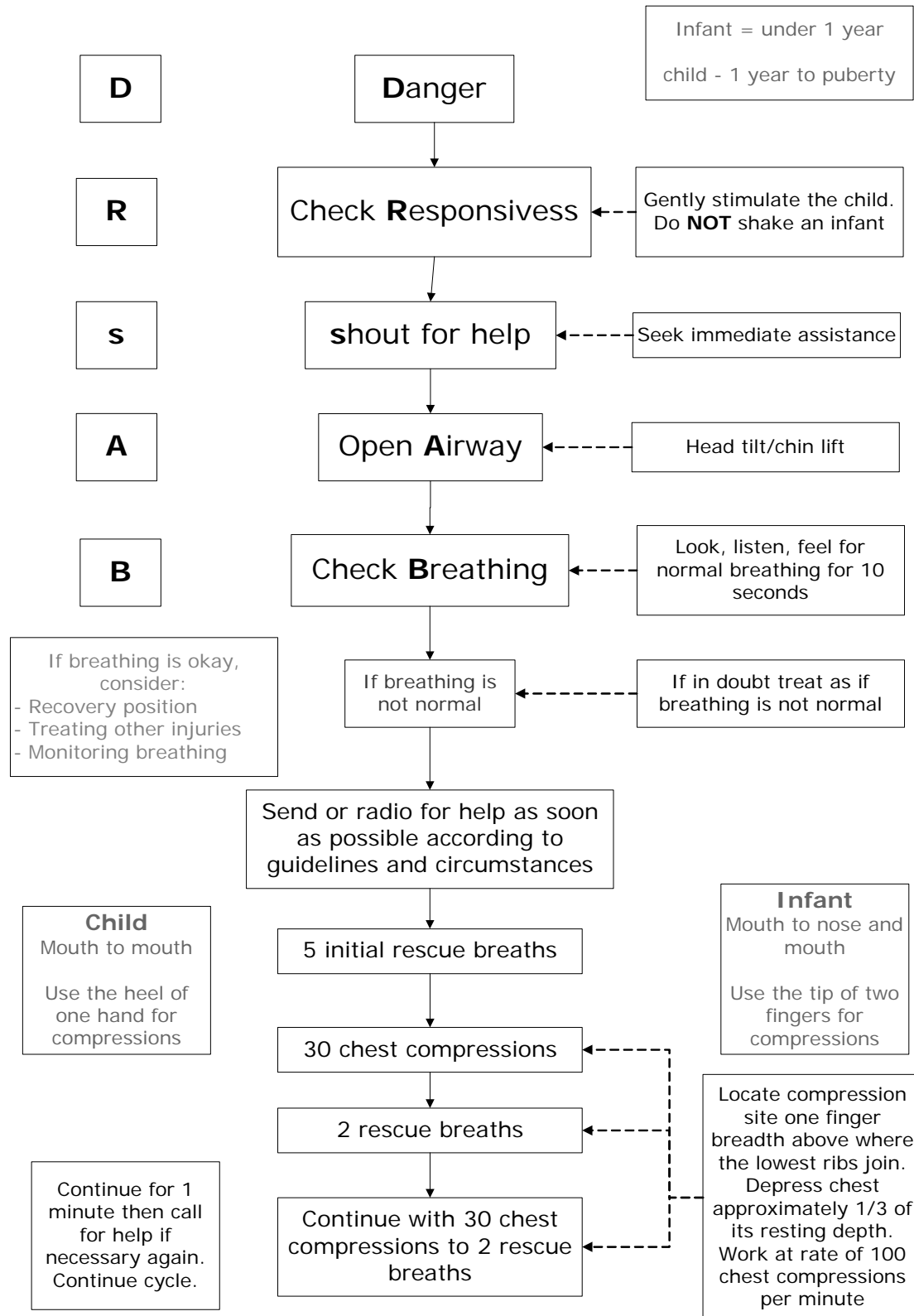
If the obstruction is still not relieved, re-check the mouth for any obstruction to the extent that can be reached with a finger and continue alternating five back slaps with five abdominal thrusts. If unsuccessful after three cycles of back slaps and abdominal thrusts an ambulance must be called.

If at any time a choking casualty becomes unconscious:



Child and infant basic life support

Child and infant basic life support (modified adult BLS)



Bleeding

Remember that you must act quickly.

Immediately:

- Lay the casualty down, provided that his/her condition will allow, preferably with the head lower than the rest of the body (this will help to minimise the condition of shock)
- Check that the wound has no embedded objects in it, e.g. pieces of glass that could harm you
- If the bleeding is from an arm or leg, elevate the limb to reduce the flow of blood, if possible
- Apply direct pressure to the wound with a sterile dressing or clean absorbent pad. In the absence of such material direct pressure with the palm of the hand can be applied to the wound

Do not be afraid to apply additional dressings over the top of the original one. If blood seeps through two dressings, take both dressings off and re-apply a fresh one. Arrange transport to hospital and continue to reassure the casualty.

A useful mnemonic to remember for the treatment for severe bleeds is **PEEP**:

Position – either sit or lay the casualty down

Examine/expose the wound

Elevate the limb

Pressure

Embedded objects

Where an object is embedded in a wound you can control bleeding by applying firm pressure on either side of the object and by elevating the affected limb if the wound is to an arm or leg.

Do **not** try to remove any object embedded in the wound. Use dressings to pad around the embedded object until you can bandage over it without pressing it further into the wound. If you cannot pad high enough, bandage around the object.

Breaks (fractures)

Signs and symptoms

Compare the injured side of the body with the uninjured side where possible.

Look for **DOTS**:

Deformity

Open injury

Tenderness

Swelling

The following may also be present:

- Pain at the site of the fracture may be severe
- Crepitus (the sound made by bones grating together) may also be present – injured parts should **not** be deliberately moved to determine whether crepitus is present
- Shock
- Movement or capacity to bear weight are usually impaired

Treatment

In first aid, maintaining airway, breathing and controlling bleeding take priority over the treatment of fractures:

- Immobilise the limb (use slings, bandages, other uninjured parts of the body, or a combination of all three)
- Do **not** move the casualty unless absolutely necessary
- Reassure the casualty
- Have the casualty conveyed to hospital

Heat exhaustion and heat stroke

Signs and symptoms :	
Heat exhaustion	Heat stroke
Headache	Headache
Faintness	Confusion
Pale, clammy skin	Hot and flushed skin
Sweating	Dry skin (but may continue to sweat)
Feeling sick	Feeling sick, vomiting, weakness
Rapid, weak pulse	Full, bounding pulse
Muscular cramps	Slow breathing
Temperature may be raised	Temperature (40 degrees C +)
Unconsciousness in severe cases	Unconsciousness (possibly sudden)
Treatment :	
Heat exhaustion	Heat stroke
Lie casualty down	Move casualty to a cool environment
Remove excess clothing from casualty	Remove as much clothing as possible from casualty
Give water with salt added to it (one teaspoon/litre)	Wrap casualty in a cool sheet dampened in cold water or sponge the casualty with cold water, fan the casualty
Seek medical help	Transfer to hospital urgently

If unconscious (uncommon) check DRsAB and treat accordingly	If unconscious check DRsAB and treat accordingly
Place in recovery position	Place in recovery position
Monitor pulse and breathing at least every ten minutes	Monitor pulse and breathing at least every ten minutes
Transfer to hospital	Transfer to hospital
Be prepared to resuscitate if condition deteriorates	Be prepared to resuscitate if condition deteriorates

First aid and minority ethnic casualties

Awareness of differing customs and cultures may assist you to provide first aid to a casualty from an ethnic minority with greater sensitivity.

There are differences in the physical observations to be seen between dark and light skinned people.

General

There may be a preference amongst some religious groups for female casualties to be treated by a female attendant where possible, e.g. Hindus, Muslims, Jews and Sikhs. This is not an absolute requirement:

- Remember, some jewellery, head coverings, scarves and turbans have religious or cultural significance
- Is it necessary to remove these articles from a casualty? If so – **explain** and obtain consent if this is possible in the circumstances

Physical observations

The physiological processes are the same for all ethnic backgrounds, but skin colour changes in the sick or injured differ between light and dark skins.

Pallor

This term is used to describe a lack of colour in a light-skinned casualty. In a black person it is recognisable by an absence of the underlying red tones that normally give black skin its glow or living colour.

A brown skinned person will appear ashen-grey. This colour may also be seen in the lips and nail beds if they are not pigmented.

Inflammation

In light-skinned people inflamed skin will appear red. In black or dark skinned people this may not be as easy to detect by sight. If you feel the skin it may feel warm or 'tight'. There may also be some hardening of tissues under the skin.

Rash

A rash may be less visible in black or dark skinned people. It may be easier to detect a rash by feeling the skin surface.

Cyanosis

A white person who is cyanosed may have a blue skin colouration particularly around the lips and nail beds.

A black or dark skinned person will not appear blue. There may, however, be discolouration of the lips, tongue and conjunctiva of the eyes, palms or soles of the feet. Applying light pressure to the skin will create pallor. The skin colour should return in less than one second in a healthy person.

Bruising

In a very dark skinned person or black person bruises will not appear as purple. A first aider will rely on obtaining a history or feeling the skin surface to detect a raised bruise.

Note: some black or dark skinned people, especially newborn babies have a noticeable pigmentation on the buttocks and lower back and to the backs of the

hands and wrists. These marks are of no consequence and often fade as a child gets older. This is **not** bruising.

Jaundice

A white person with jaundice may have yellowing of the skin. This may be especially noticeable in the white part of the eye.

In black or dark skinned people, jaundice may be detected by looking at the eyes rather than the skin. Yellowing may also be visible in the mouth, on the palms or on the soles of the feet.

When making observations of the skin, particularly in black or dark skinned individuals:

- Examine the casualty in good light where possible (preferably daylight).
- Remember that colour changes may be more apparent in the lighter coloured areas of the body.
- If in doubt ask the casualty, their relative or friend, or a medical professional for their opinions.

Use Police Actions in a Fair and Justified Way (IND10) v1.00

In order to use police actions in a fair and justified way, you need to understand the principle of reasonable grounds for suspicion or belief and understand the importance of basing your actions on reliable and objective information and observation. You also need to use your officer powers fairly and without bias and in accordance with current legislation and policies. In addition to using officer actions fairly, you need to use them proportionately. You should use the minimum powers and procedures that can be reasonably expected to achieve the legitimate lawful aim. Also, when interacting with others, you need to treat people in an ethical manner, recognising their needs with respect to equality, diversity and human rights.

Apply the principle of reasonable suspicion or belief

Any action you take must be based on reasonable suspicion or belief after checking and confirming the validity of the information and sources.

The following methods can be used to confirm the validity of the information and sources:

- The 5X5X5 system. This must be used to assess the validity of information before reasonable grounds for suspicion or belief can be based upon it.
- Verifying information by using the Police National Computer (PNC). This is one way of checking the validity of information. It may provide facts that put the information provided by a person in dispute and hence give rise to reasonable suspicion.

Using subjective information to support reasonable grounds for suspicion or belief, and then acting upon this, could lead to claims of a misuse of your powers. This would have a negative effect on the relationship between the police and the community.

Misuse of powers can also lead to information, later used as evidence, being excluded and prosecutions being discontinued.

Use Police Actions Fairly

As the use of police powers can have a massive impact on people's lives, you must exercise officer powers and procedures

- fairly and without bias
- free of racial or other prejudiced assumptions or beliefs

In addition, when exercising any power, you must do the following:

- tell the person what is happening with regard to which power is being used
- describe to the person the reasonable grounds of suspicion or belief that support this use of the power
- explain the purpose of using the power

Treat everyone in the same circumstances with the same respect for their dignity and needs. You can be firm and fair, which will justify your actions and approach.

If people are not treated fairly they may feel that they have been discriminated against. The impact of discrimination is not just restricted to one person. If one person in a community suffers discrimination or is treated badly, other members of the same community may feel threatened. This occurs particularly if the victim belongs to a group where there is considerable community cohesion.

Asking Questions

Simple respect, asking open questions without bias or assumption and listening carefully to the person to whom you are speaking, will ensure that you are behaving in a professional, effective and appropriate manner. When questioning people you need to be aware that there are different types of questions:

- open
- closed
- leading

Open Questions

If you are seeking new information, it is usually best to ask open questions. This type of question requires an answer which is other than just a "Yes" or "No".

Beginning a question with one of the following words is usually effective in producing new information, without making suggestions or any assumptions about the answer. This is known as following the 5WH model.

The 5WH Model

- What?
- Where?
- When?
- Who?
- Why?
- How?

Use Police Actions Proportionately

You need to consider all options available before applying powers and procedures. You need to be aware of the variety of ways that offenders may be dealt with following contact with the police service and when each one might be appropriate.

You must take account of the likely impact on the victim, suspected offender and the community when you consider whether the course of action is proportionate to the aim.

The following points should be borne in mind, when considering whether to use your police powers. Is the use of this power

- reasonable in the circumstances?
- an absolute necessity?
- the minimum amount necessary?
- proportionate to the seriousness of the case?

Remember, whatever course of action you take, your actions must be:

Proportionate

Legal

Accountable

Necessary

Discretion

Although not a statutory right, the proper use of discretion is recognised as an officer skill. It is not your duty to indiscriminately prosecute every person who commits an offence. Imagine the public outcry and attitude towards the police if every breach of the law, no matter how small or insignificant, were to be prosecuted. **The use of discretion in policing can help preserve policing by consent.**

Maintain Accurate Records

When recording any information, it should be recorded as soon as possible after the event. Where there is a delay, the specific reasons should be included. An example of a circumstance that could delay the recording of the event could be the conduct of the suspect or another person involved in the incident.

You have a responsibility to be accountable for your actions and recording the correct information will help you to justify your actions at a later date if needed.

Social, community issues and neighbourhood policing

(IND11) v1.00

Building links with the community and neighbourhood in which you work is essential to establish the trust and cooperation of the public. By improving social cohesion you can reduce crime and increase the public's sense of safety and satisfaction with the police service.

Neighbourhood policing is about delivering control in response to public priorities. It aims to achieve the right numbers of the right people, at the right places in order to create neighbourhoods that are safe and feel safe.

Understanding and being in the community

Society itself has needs, the most basic of which is its own stability and anything which threatens this is seen as a threat to society as a whole. The threat may not be obvious to an outsider, but may be very real to its members.

Society is usually broken down into communities and communities are usually divided into groups. Individuals may well be members of various communities or members of various groups within a community. In addition to communities and groups an individual is a member of a neighbourhood. Communities often express identification with a locality based on history and culture rather than any geographic logic; whereas a neighbourhood is defined geographically.

Social cohesion

Tensions can exist between certain communities or within communities. These tensions may be based on religion, ethnicity, or something even as apparently simple as membership of a political group, or supporters of a football club. Once you are aware of these tensions, it may be possible for you to work proactively with other agencies to reduce them. The best time to tackle tensions is early on when they are arising due to stereotyping or inaccurate information.

Social change

Society and communities are constantly going through a process of change. The changing nature of society gives rise to changing forms of crime within society. What was once an effective policing practice within a community may become totally inappropriate and it is vital to keep abreast of developments and social change.

Making links with your community and organising meetings

Police powers and authority, attitudes and behaviour can create or undermine public trust. Some communities are very fragile and diverse. In such communities, insensitive or inappropriate policing can be very damaging, not only to police and community relations, but to the community itself. You should consider the possible outcomes before commencing any course of action.

Close links with the community will make all involved more aware of what may be trigger factors. Therefore it is vitally important that you integrate into the community in which you will be working. Community partnerships are vital to assist you in your role. Meetings will become a vital part of your day to day contact with the community.

Neighbourhood policing

Neighbourhood Policing aims to put communities, their needs, issues and priorities at the heart of local policing. Neighbourhood policing aims to achieve:

“The purpose of neighbourhood policing is to deliver the right people, at the right places and in the right numbers, in order to create neighbourhoods that are safe and feel safe.”

ACPO (2006) Practice Advice on Professionalising the Business of Neighbourhood Policing.

Neighbourhood teams aim to provide communities with:

- **access** - to policing or community safety services through a named point of contact
- **influence** - over community safety priorities in their neighbourhood
- **interventions** - joint action with communities and partners to solve problems
- **answers** - sustainable solutions to problems and feed back on results

Neighbourhood Policing will also help partners to:

- increase public participation and engagement
- build trust in communities
- solve local problems

The ten principles of neighbourhood policing

1. an organisational strategy that allows the police, its partners and the public to work closely together to solve the problems of crime and disorder, improve neighbourhood conditions and feelings of security
2. is managed within mainstream policing activity, integrated with other policing services and should not diminish activity to address volume and serious crime
3. requires evidence-based deployment of neighbourhood teams against identified needs
4. establishes dedicated, identifiable, accessible, knowledgeable and responsive neighbourhood policing teams which provide citizens with a named point of access
5. reflects local conditions and is flexible and adaptive

6. allows the police service to work directly with local people in identifying the problems that are most important to them, thereby giving people direct influence over local policing priorities
7. establishes a regime for engaging other agencies and the public in problem solving mechanisms
8. uses the National Intelligence Model as a basis for deployment
9. requires an effective engagement, communication and feedback strategy and a clear explanation of where accountability lies
10. should be subject to rigorous performance management including clear performance monitoring against a local plan and commitments made to neighbourhoods

Community engagement

Neighbourhood teams will use a range of approaches to involve local communities in identifying safety concerns. For example, local issues can be identified and priorities agreed by involving communities in conducting Environmental Visual Audits (EVAs) or patch walks with members of the neighbourhood Team. Street briefings can bring together those living and working in a specific area to identify common concerns. Neighbourhood panels or forum meetings can provide a mechanism for communities to prioritise problem-solving and for feedback on the action taken. Neighbourhood teams will want to tailor their engagement strategies to compliment and support those of their local community safety and criminal justice partners.

Community intelligence

Community intelligence may highlight tensions and inform decisions about community issues. As with all intelligence, community intelligence needs to be evaluated. Intelligence may form the basis for tactical intervention and should be submitted in accordance with the **National Intelligence Model (NIM)**. Remember, all information and intelligence should be recorded and its security, integrity and confidentiality maintained.

Signal crimes

Neighbourhood policing uses a method called the Signal Crimes Perspective to identify those issues which are of the greatest concern locally. The method uses three signals, referred to as **expression, content** and **effect**.

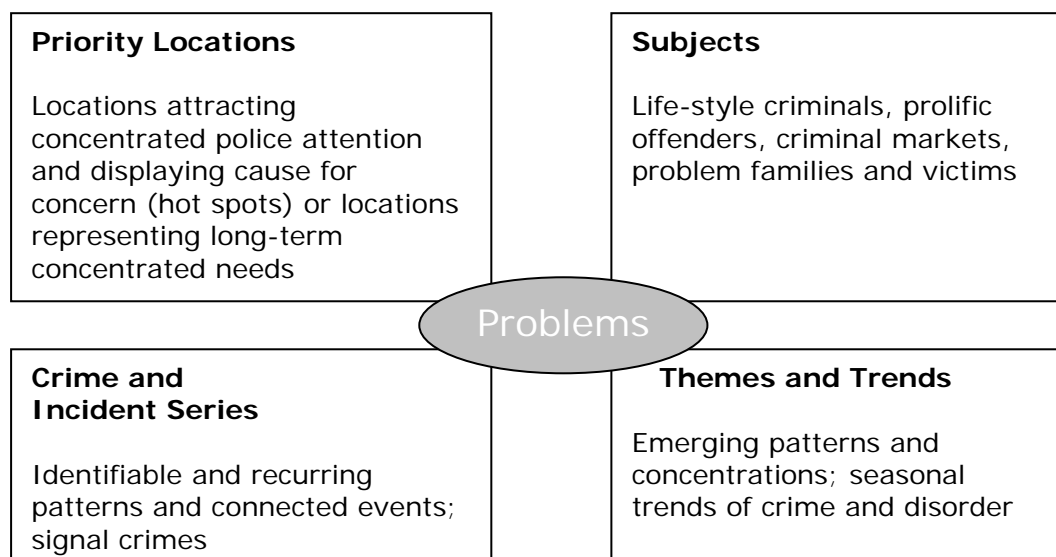
Expression is the incident that is the focus of a member of the public's concerns, for example vandalism to a bus shelter is an incident and therefore is the expression.

Content refers to the meaning that the expression has for the individual – they may feel 'at risk' in some way or that something around them is 'at risk' as a result of their knowledge of a local incident.

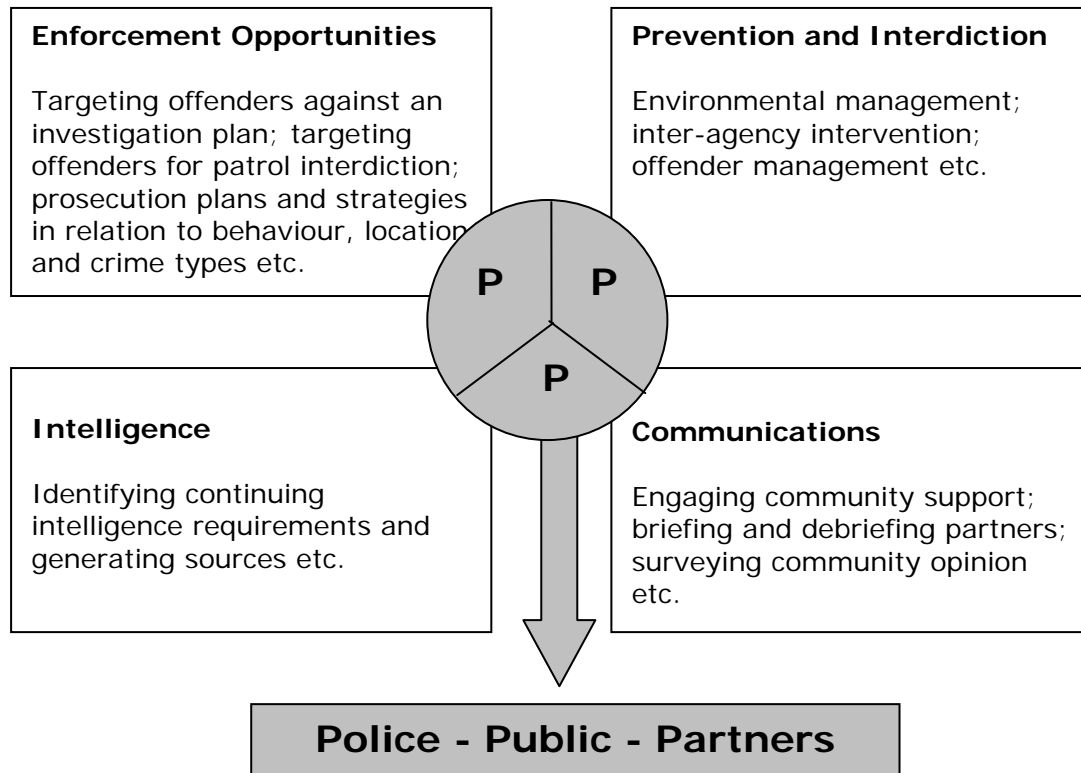
Effect is the change that is caused by the expression and the resulting content, for example, the individual may not use that bus stop anymore.

Solving problems with neighbourhood policing

Neighbourhood policing must be intelligence led. The NIM sets out a process for **problem identification**:



There is then a **tactical menu** against which these problems can be considered:



The **SARA model** of problem solving can be used when addressing community issues.

Public Protection

Protecting the public is the responsibility of all staff within the police service. We play a key role in protecting the public from those violent offenders, sexual offenders and other Potentially Dangerous Persons (PDPs) who pose a risk of serious harm.

Statutory public protection responsibilities

The relevant legislation that applies to the police's public protection responsibilities:

Legislation	What it covers
Criminal Justice Act 2003 (Schedule 15), Part 1	Specified violent offences (that do NOT fall under the category of sexual offences) that police have statutory public protection responsibility for.
Criminal Justice Act 2003 (Schedule 15), Part 2	Lists specified sexual offences that police have a statutory public protection responsibility for.
Criminal Justice Act 2003 (Chapter 5 of Part 12)	Introduces new sentencing structure for dangerous offenders.
Sexual Offences Act 2003, Part 1	Makes new provision for the listed sexual offences.
Sexual Offences Act 2003, Part 2	Contains measures for protecting public from sexual harm.
Sexual Offences Act 2003, Schedule 3	Lists the sexual offences that apply to Part 2.

MAPPA

The principles that govern MAPPA (Multi-Agency Public Protection Arrangements) are:

- identify who may pose a risk of harm
- share relevant information about them
- assess the nature and extent of that risk
- find ways to manage that risk effectively, protecting victims and reducing further harm

Offenders that are managed by MAPPA are categorised as follows:

- Category 1 – Registered Sex Offenders (RSOs)
- Category 2 – violent offenders and other sexual offenders
- Category 3 – other dangerous offenders

	Category 1	Category 2	Category 3
Type of offender	Registered sexual offenders – offenders subject to notification requirements of Part 2 of Sexual Offences Act 2003.	Violent offenders and other sexual offenders as covered by s. 327 (2)-(5) of the Criminal Justice Act 2003.	Other dangerous offenders s.325(2)(b) Criminal Justice Act 2003. A person the Responsible Authority considers may cause serious harm to the public based on a prior conviction (or caution) for a criminal offence.
Agency(ies) responsible for identifying offender	Primarily the police. Some offenders subject to statutory supervision by Probation Service or YOT.	Primarily the relevant probation area or YOT. Sometimes mental health services or adult and children’s social care services.	The agency that first deals with the offender.
When does categorisation end?	When period of notification has expired.	When statutory supervision ends.	When all agencies involved agree that the offender is no longer a risk of causing serious harm.

Potentially Dangerous Persons (PDPs) who fall outside MAPPA categories

The ACPO (2007) Guidance on Protecting the Public: Managing Sexual Offenders and Violent Offenders 2007 defines a PDP as a person who has not been convicted of, or cautioned for, any offence placing them into one of the three MAPPA categories but whose behaviour gives reasonable grounds for believing that there is a present likelihood of them committing an offence or offences that will cause serious harm. There is no statutory multi-agency framework which governs the management of PDPs.

The diversity and human rights framework

As in all areas of police business, protection of the public and legislation require that diversity issues are recognised and met with appropriate responses. Recognition of, and responses to, diversity issues should be evidenced on case files.

You should ensure you are familiar with the following legislation and understand how it impacts on how you meet your responsibilities to protect the public:

Human Rights Act 1998 and the Plan acronym

Race Relations Act (as amended) (Sections 19B and 71)

Disability Discrimination Act 1995 (Sections 21B-E and 49A-D)

Sex Discrimination Act 1975 (Sections 21A and 76A)

Equality Act 2006 (Section 52)

The Equality Act (Sexual Orientation) Regulations 2007 - Regulation 8

The role of information systems in the management of relevant offenders

Database	Contains	Used for	Used by
Violent and Sex Offender Register (ViSOR)	All individuals identified as MAPPA cases. PDPs will be considered. Detailed risk assessments are stored and updated.	Offender-management mainly. Also used to identify potential suspects for	The police, probation and prison services.

	Allows exchange of information with others involved in management of the offender.	violent crimes or sexual offences.	
Probation Case Management System	Information relating to probation caseload and workload. Data recorded at both pre- and post-sentence stages.	Managing probation caseload. Used to monitor risk, national standards and performance.	By most, but not all, probation areas.
Local Inmate Database System (LIDS) and C-NOMIS	Information about each prisoner's classification and details of time spent in custody. Reports and enquiries relating to individual prisoners. Information about through-care, sentence planning, discharge and discharge preparation.	LIDS will be replaced by C-NOMIS (National Offender Management Information System) in late 2008.	Prison and Probation Services. Police Prison Intelligence Officers in prison establishments.
Impact Nominal Index (INI)	An index of named persons whose details have been recorded for policing purposes from up to six different business areas. Access is not provided to a force local system but details of a point of contact to which further enquiries can be made are given.	Enables an investigator to identify which organisation(s) hold information about a named person.	Suitably trained and authorised investigators with the police forces of England and Wales, Scotland, the PSNI and the BTP.

Scottish Intelligence Database	<p>Intelligence on nominals involved in all areas of criminality.</p> <p>Based on submission of intelligence logs by officers.</p> <p>Every nominal on ViSOR also has a SID record.</p>	<p>A single intelligence database for all Scottish police forces, the Scottish Drug Enforcement Agency and the Scottish branch of SOCA.</p>	<p>Every Scottish police force and relevant agency is able to view all intelligence.</p> <p>Work has commenced to automate links between, SID, ViSOR and ANPR.</p>
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Operational Quick Notes

Obtain, evaluate and submit information and intelligence to support local priorities (OP2) v1.02

This section outlines how to identify information from a variety of sources that has the potential to become intelligence. It also incorporates the principles of Management of Police Information (MoPI). The information and intelligence gathered may assist and support both local and national policing objectives. You will need to be able to work in accordance with the requirements of the National Intelligence Mode and MoPI. This section also outlines how to evaluate the information and conduct an initial assessment and grading of the information and the principles of review, retention and disposal of police information and intelligence.

Police Information is all the information obtained and recorded for a policing purpose.

Policing purpose refers to:

- Protecting life and property
- Preserving order
- Preventing the commission of
- Bringing offenders to justice
- Any duty or responsibility of the police arising from

Intelligence is information concerning incidents, events or people, which is subject to a system of processing. It is used to monitor and predict crime which allows resources to be deployed to the best effect.

The National Intelligence Model (NIM)

The National Intelligence Model (NIM) is a model for policing, that senior managers can use to help them formulate strategic direction, make tactical resourcing decisions and manage risk. It is also covered in LPG 1_7_02.

Covert Human Intelligence Source (CHIS)

Although only specialists can use CHISs, all officers must be aware of the legislation and use of sources.

The Regulation of Investigatory Powers Act 2000 (RIPA) and the statutory Code of Practice, the 'Covert Human Intelligence Sources Code of Practice' pursuant to S.71 of RIPA 2000, impose certain conditions when dealing with individuals who wish to give information to the police, or when it is decided to involve a trained undercover officer to assist in an enquiry. Depending on how this information is to be obtained, the individual and the officer may be classed under RIPA as a CHIS. Any conduct authorised under RIPA is lawful for all purposes. As such, all CHISs should be authorised under RIPA 2000 by the authorising officer.

Section 29 of RIPA details the grounds on which a CHIS can be authorised.

A CHIS is defined in Section 26(8) of RIPA as a person who establishes or maintains a personal or other relationship with another person for the covert purpose of facilitating anything that:

- (a) covertly uses such a relationship to obtain information or to provide access to any information to another person; or
- (b) covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship

A police officer or PCSO can also be authorised as a CHIS.

A CHIS does **not** include:

- members of the public who provide information or assistance to the police, generally having no expectation of reward or advantage and have information which is received by them ordinarily in the normal course of their life, or
- persons who have obtained personal information through their trade or business, as part of their normal business practices, if they suspect criminal activity **and** no one attempts to direct any action by the person receiving the information to develop/enhance that information in any way.

The **CHIS management system** consists of an 'authorising officer' a designated 'handler' and 'controller'.

Regulation of Investigatory Powers Act 2000 (RIPA) and covert policing

Every officer carries out surveillance as part of their general duties. This is either done openly (overt) or in a concealed manner (covert).

Part II of RIPA provides a statutory framework for the authorisation and use of directed surveillance, intrusive surveillance and the conduct and use of CHISs. It regulates the use of these techniques, safeguards the public from unnecessary intrusions of privacy and ensures that the relevant investigatory powers are used in accordance with the European Convention on Human Rights (ECHR).

What is surveillance?

Under RIPA, surveillance includes:

- monitoring, observing, or listening to persons, their movements, their conversations, or their other activities or communications;
- recording anything monitored, observed or listened to in the course of surveillance, and
- surveillance by or with the assistance of a surveillance device.

Section 26(9) of RIPA states that surveillance is covert:

If, and only if, it is carried out in a manner that is calculated to ensure that the persons who are subject to the surveillance are unaware that it is or may be taking place.

Covert surveillance under RIPA is broken down into two types; **directed** and **intrusive** surveillance (See the Covert Surveillance Code of Practice, pursuant to Section 71 of RIPA).

Authorisation will provide lawful authority for a public body to carry out surveillance.

- For **directed surveillance**, authorisation is required from a superintendent, although in urgent cases an inspector can provide authorisation (higher level required in respect of confidential material).
- For **intrusive surveillance**, a chief constable (commissioner or an assistant commissioner in the MPS) can issue authorisation and must inform a Surveillance Commissioner. Authorisation does not take effect until Commissioner approves it.

Part III of the Police Act 1997 governs the way in which law enforcement agencies conduct operations that require entry on or interference with property or with wireless telegraphy without the consent of the owner or occupier. You should seek advice and guidance from covert specialist units within your force, should you consider using such methods under the provisions of the Police Act 1997.

Evaluating intelligence material – the 5x5x5 method

Intelligence is defined as information that has been subject to a defined evaluation and risk assessment process in order to assist with police decision making. In addition to being evaluated, information is analysed. Analysis involves identifying critical links and associations that help understand crime patterns, offending behaviour and incident problems. From that analysis, intelligence products are developed and considered at either strategic or tactical tasking and co-ordination group meetings. At these meetings priorities are identified and decisions made on the resource deployment.

The **National Information/Intelligence Report Form 5x5x5** is the only system recognised nationwide for the recording, evaluation and dissemination of information into the intelligence system. All information/intelligence reports must be correctly evaluated using the 5x5x5 evaluation method. The 5x5x5 system determines the quality of the source of the information as the information itself and to what extent it can be disseminated and is graded as follows:

Source evaluation	Information/intelligence evaluation	Handling code
A – always reliable	1 – known to be true without reservation	1 – default: permits dissemination within the UK police service AND to other law enforcement agencies as specified
B – mostly reliable	2 – known personally to the source but not to the person reporting	2 – permits dissemination to UK non-prosecuting parties
C – sometimes reliable	3 – Not known personally to the source, but corroborated	3 - permits dissemination to (non EU) foreign law enforcement agencies
D – unreliable	4 – cannot be judged	4 – permits dissemination within originating force/agency only: specify reasons and internal recipient(s). Review period must be set
E – untested source	5 – suspected to be false	5 – permits dissemination but receiving agency to observe conditions as specified

The recording and dissemination of intelligence material

You have a duty to seek out, record and disseminate intelligence material relating to offenders and suspected offenders. However, you must have a legitimate basis for processing data and observe the data protection principles regarding data quality and security in our handling of intelligence material.

Recording intelligence material

Before recording intelligence material, you must be satisfied that:

- the activity conforms to standard grounds
- the recording or dissemination of intelligence material is likely to be of value in the interests of national security, the prevention or detection of crime and disorder, the maintenance of community safety, the assessment or collection of any tax or duty or of any imposition of a similar nature, or otherwise serves a significant public interest; and
- the recording and dissemination of intelligence material does not include 'confidential material', unless safeguards have been taken into account; and
- the recording and dissemination of intelligence material would be in compliance with the Data Protection Act 1998

Confidential material

- matters subject to legal privilege
- confidential personal information
- confidential journalistic material

Before including confidential material in an intelligence system, take due account of any restrictions on the use or requirement for special handling imposed by the officer who authorised its collection.

A record must also be made of the assessed risks in the use of the intelligence material or in its potential disclosure in court proceedings.

Disseminating intelligence material, recording dissemination and retaining material

You should always check with a supervisory officer before disseminating intelligence. Subject to certain provisions, the police may **disseminate intelligence material** to:

- statutory UK law enforcement agencies
- the Security and Intelligence Services

- UK agencies, other than statutory law enforcement agencies, which are prosecuting agencies

The police may disseminate intelligence material within the UK to parties other than those listed above when the circumstances require it. In such cases a record must be kept of:

- the material disseminated
- the addressee
- the authorisation
- the purpose of the dissemination
- any restrictions on use or further dissemination of the material imposed as a result of a risk assessment

When intelligence has been disseminated, **records** must be kept of:

- any restrictions on use or further dissemination of the material imposed as a result of a risk assessment
- where the material is 'confidential material', any restrictions on use or further dissemination, and any requirement for special handling imposed by the officer who authorised its collection

Retention of material

Where intelligence material or other material relating to the recording or dissemination of intelligence material could be relevant to pending or future criminal or civil proceedings, it should be preserved in accordance with the requirements, where appropriate, of the Criminal Procedure and Investigations Act 1996 Code of Practice, pursuant to Section 23(1) and other relevant legislation. (This Code of Practice only applies to criminal proceedings, not civil proceedings).

The Data Protection Act 1998 requires that personal data should not be kept longer than is necessary for the purpose for which it was acquired.

Intelligence material should be subject to regular review. Intelligence material that is no longer of value should be destroyed.

Where it is believed that intelligence material or any other matter required to be recorded should, notwithstanding the requirement above, be retained on the grounds of significant public interest, the material may be retained subject to:

- a record being made of the reason for the retention
- regular review of its continuing retention
- the imposition of additional safeguards concerning access

Sharing Police Information

Information can be freely shared between police forces provided the sharing is for a policing purpose. However, information can only be shared with other agencies if a Statutory Obligation, Statutory Power or common law policing purpose exists.

When sharing information you must:

- ensure it is for a policing purpose or can be lawfully shared for a statutory purpose;
- ensure the information is relevant, accurate and adequate for the purpose;
- ensure the requirements of the Data Protection Act 1998, the Human Rights Act 1998 and common law duty of confidence are met in relation to personal and sensitive personal information;
- risk assess the information and if necessary apply the appropriate protective marking;
- record decisions to share or not to share information

Review, Retention and Disposal of Police Information

Review means to examine a Person Record and all associated records, to ensure that there is a continuing policing purpose for holding the record; the record is adequate, up to date and not excessive and that all personal records are compliant with the Data Protection Act principles.

Retention means the continued storage of and controlled access to information held for a policing purpose, which has been justified through the evaluation and review process.

Disposal means the removal of information from all police systems, justified through the evaluation and review process, to the extent that the information cannot be restored.

Reviews

There are two types of review - triggered and scheduled reviews. All reviews must be recorded and subject to monthly audit.

Retention

When deciding to retain or dispose of records they should be assessed against the National Retention Assessment Criteria. Retained records should be stored in a system that allows them to be searched and retrieved. Classified material is subject to specified requirements for storage.

Disposal

When records are disposed of they must be removed from ALL police systems such that they cannot be recovered. Confidential material must be disposed of in accordance with the Government Manual of Protective Security.

A record showing the date and reason for disposal must be kept of all disposals. These records of disposal are subject to regular audit.

Respond to incidents, conduct and evaluate investigations (OP3) v1.02

These notes will help you understand how to gather information about the incident you are investigating and identify and prioritise the actions that need to be completed in an investigation. You will realise the importance of making contact with your force communication centres, police specialist departments and other agencies during an investigation. These notes will also look at how to provide support to victims, potential witnesses and, in some respects, suspects who are present at the scene of an incident. Issues concerning scene preservation and evidence gathering will be covered, as will conducting ethical and effective investigations and completion of any associated paperwork. Finally, we will also cover the importance of effective communication with those

present at the scene and the importance of recording your decision making processes.

Gathering Information

Before responding to an incident you should gather as much information about it as possible. Information can come from call handlers, other colleagues, intelligence, witnesses at the scene, residents of the area etc.

Information can be **objective**, i.e. details you know to be true without possible dispute. These are facts, not opinions. Information can also be **subjective**, for example it could be information that was not ascertained by you first-hand but gathered from a witness. Subjective information may be biased by opinion or stereotypical assumptions.

Record **all** information even if it seems irrelevant. It may become relevant later in the investigation. Information should be recorded in your pocket notebook (or Evidence and Actions Book in the MPS). See **LPG 1_4_04 (Exhibits)** for further details.

Evaluating information

Consider:

- the source of the information
- the quality of the information

Information will help you determine the type of incident that you are responding to. Sometimes it may be necessary to obtain further information to help you plan your response.

Additional sources of information can be:

- the communications centre
- line management (supervisors)
- other specialists, including external agencies, for example the Highways Agency
- colleagues
- members of the public

Plan a response to an incident

Having initially received the call concerning an incident the call will be graded by the handler. This graded response involves classifying calls into the following categories:

- those requiring immediate response
- those requiring deferred response
- those requiring no response

These categories will vary from one force area to another. It is therefore important that before commencing patrol you familiarise yourself and have a clear understanding of your own force policies with regard to call handling procedures and timescales for attending and dealing with incidents.

When **prioritising and planning your actions according to the nature of the incident** there are certain things you will need to consider when attending any type of incident for example:

- health and safety
- communication
- knowledge of the law and procedures

Once you have attended an incident and started the investigation procedures, it may be necessary to contact other individuals or agencies. You may require specific information from them, or alternatively you may need to inform them, in order to comply with a force directive.

Some examples of other individuals or agencies that you may need to provide information to:

- other emergency services
- local authority
- Health and Safety Executive (HSE)
- media (if your force permits)
- armed forces

Prepare to respond to incidents

On your arrival, identify what the scene is and assess the situation as quickly and carefully as you can. This will help you decide on the most appropriate action. The first duty of an officer at a scene is to preserve life. Preservation of life will always be the top priority and you must render aid and assist other qualified personnel to do so.

As part of the investigation, and to help you to respond to the incident, you will need to consider information available to you. This will be available in the main from persons who are or were at the scene who are able to supply you with specific information concerning for example:

- times and dates
- what exactly happened
- descriptions of suspects and what was said
- whether any vehicles were involved

Intelligence can also be obtained from such things as Closed Circuit Television (CCTV) cameras and audio or video recordings. Any intelligence information you gather will have to be submitted as soon as practicable.

Providing support for those at the scene

An essential priority for any officer attending an incident is to identify any witnesses and/or victims, in order that the facts and the circumstances of the incident can be investigated. Persons at the scene of an incident may have a variety of needs and support requirements. This includes not only victims and witnesses but suspects as well.

The type of need can include medical assistance, reassurance, advice, understanding or protection. Further information on providing for victims and witnesses can be found in **LPG 1_3_07 (Code of Practice for Victims of crime)** and **LPG 1_3_12 (Victim Support)**.

Recognise and manage the stress of handling traumatic incidents

During the course of your service you will attend many different types of incidents that have the potential to induce traumatic stress. Symptoms can be physical, emotional or behavioural and there is no definitive timescale for when they will start to appear, although usually it is within six months of the incident.

Victims, witnesses or suspects who are experiencing stress at the scene of an incident may not provide you with the best or most accurate account unless you can help them to deal with their stress. Consider the following:

- Remove them from the source of the trauma to somewhere they feel safe.
- Unless it is necessary to interview immediately, delay the interview until the person has had an opportunity to recover from the immediate trauma.
- Try to have a friend or relative keep them company. Advise them to seek medical advice from their doctor.

It is important that you do not ignore the signs of stress in yourself. Physical warnings such as tense muscles, over-tiredness, headaches, migraines or irritability may be indicators of stress. Realising that stress is causing you a problem is the first step in being able to deal with it. Always seek advice if you are concerned about your health or well-being rather than worrying alone. Your own doctor or the force occupational health department may be able to refer you to appropriate sources of help.

Scene preservation and early actions

The action you take at a scene can be divided into three distinct phases:

A	Assess
P	Protect
C	Communicate

Assess

Identify the scene and assess the situation quickly and carefully. Be extra vigilant at scenes of major crimes or where there is a risk of explosives being

involved. Remember that your first duty is to preserve life. Consider the scene (which could be the victim). Assume the offender has left **trace evidence**. Trace evidence can be DNA, footwear marks, fingerprints, fibres, hairs, tool marks, paint and glass fragments. Take care to minimise damage or disturbance to the scene. Do **not** touch anything found, unless to do nothing would result in it being lost.

When approaching the scene, look where you step. Try to avoid the route the offender may have taken. Advise other personnel to follow your route – this is called using a **Common Approach Path** (CAP).

Take note of an injured person's position, condition of their clothes and any items in their hands. Make sketches if necessary.

Be aware of health and safety issues such as structural damage to buildings, body fluids, drugs, sharps, violent suspects etc.

Protect

Some evidence may not be visible to the naked eye so it is necessary to preserve the scene to protect all the evidence. Request that the victim does not clean up. Also, remember a victim could be a 'crime scene' so tactfully request that they do not clean themselves. Ask them to wait until the Crime Scene Investigator/Examiner or Scene of Crime Officer has attended. You must report the full situation at the scene to control.

There are specific procedures associated with exhibits. All material gathered which is relevant to the investigation must be retained, recorded and disclosed under the Criminal Procedure and Investigations Act (CPIA) 1996.

Documentation and Identification Procedures

Officers have certain powers to obtain and procedures for documenting and identifying suspects:

- Fingerprints
- Photographs
- DNA

Fingerprint and DNA forms are submitted to the National Identification Bureau.

PIP Level 1

Professionalising the Investigation Programme (PIP) was introduced by ACPO Crime Business Area to improve crime investigation. ACPO (2005) Practice Advice on Core Investigative Doctrine provides definitive national guidance as defined by PIP on the key principles of crime investigation.

Investigator

'An investigator is any police officer or other person involved in the conduct of a criminal investigation. All investigators have a responsibility for carrying out the duties imposed on them under this code, including in particular recording information, and retaining records of information and other material.'

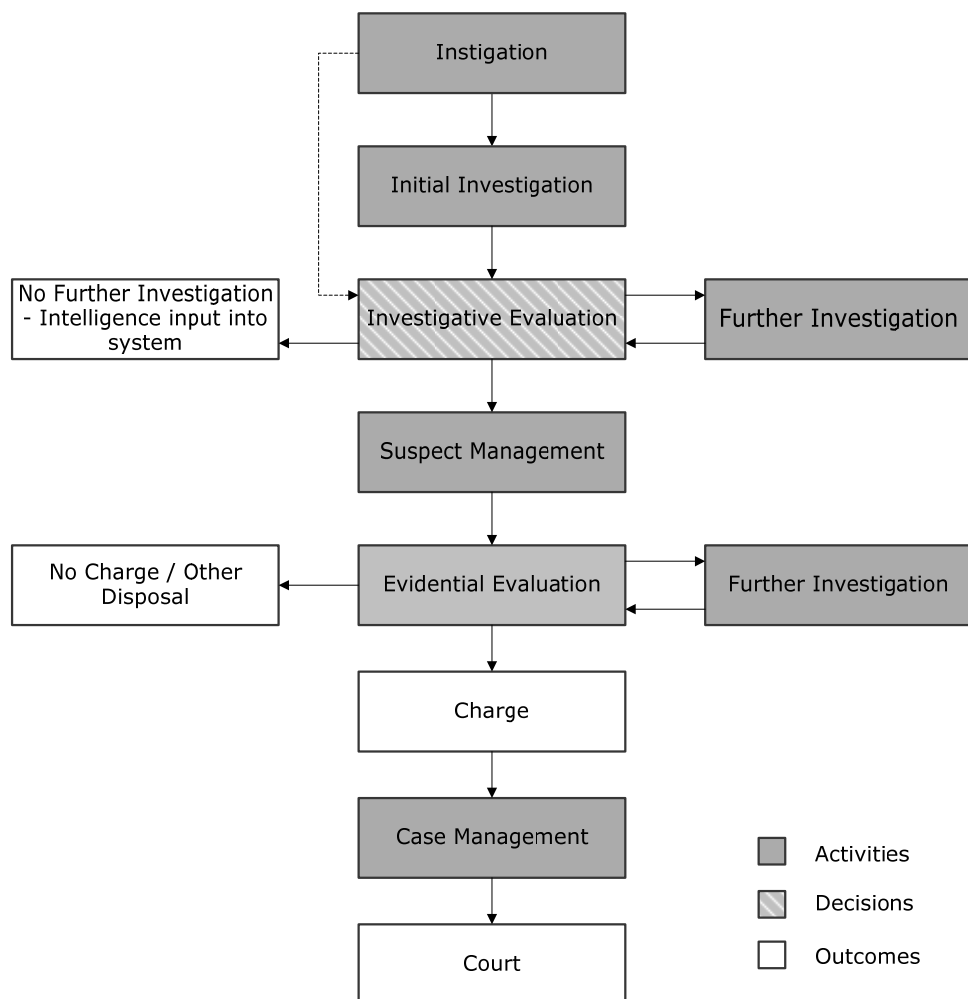
PIP Levels

Investigative Level	Example of Role	Typical Investigative Activity
Level 1	Patrol constable/police staff/supervisors	Investigation of volume crime
Level 2	Dedicated investigator e.g. CID officer	Substantive investigations into more serious and problem offences including road traffic deaths
Specialist investigative roles	Child protection, family liaison, major crime	Child protection, special branch, family liaison, force intelligence bureau
Level 3	Senior investigating officer	Lead investigator in cases of murder, stranger rape, kidnap or crimes of complexity

Definition of material

'Material is material of any kind, including information and objects, which is obtained in the course of a criminal investigation and which may be relevant to the investigation. This includes not only material coming into the possession of the investigator (such as documents seized in the course of searching premises) but also material generated by him (such as interview records). Material may be relevant to an investigation if it appears to an investigator, or to the officer in charge of an investigation, or to the disclosure officer, that it has some bearing on any offence under investigation or any person being investigated, or on the surrounding circumstances of the case, unless it is incapable of having any impact on the case.' The CPIA 1996 Code of Practice

Stages of an investigation



The investigative mindset

The application of an investigative mindset brings order to the examination of material and investigative decision making. There are five principles:

- Understanding the source of material
- Planning and preparation
- Examination
- Recording and collation
- Evaluation

Initial investigation - key considerations

- Preservation of life
- Preserve scenes
- Secure evidence
- Identify victims
- Identify suspects

Evaluate Materials

Investigative evaluation should identify:

- what is known
- what is not known
- consistencies
- conflicts

Evidential evaluation should consider:

- the overall strength of the case
- whether sufficient evidence exists against the offender to proceed to charge

A suspect strategy includes:

- identification
- arrest
- search of premises and vehicles
- collection of evidence
- pre-arrest briefing
- suspect interviews

Case management

Investigators must be able to manage themselves and their time effectively in order to be able to successfully manage all aspects of an investigation.

Integrate equality and diversity good practice into investigations

The Police Service Statement of Common Purpose and Values provides basic ethical principles, which should guide investigators.

Maintaining effective communications

Briefing and updating other people and agencies

When you are working with other people and agencies it is important that they are kept up to date with the facts and circumstances of what it is you are dealing with. This will help to develop a feeling of mutual trust and motivate people to work as a team towards achieving the common objective and encourage the two-way flow of information. Briefings should be planned, conducted formally and a record kept of the content of the briefing. Where briefings involve other agencies it is important that you follow your force policies and procedures for communicating with other agencies and always consider the management of Police Information (MOPI) guidelines when sharing information.

The IIMARCH briefing model

A model of briefing personnel used by many forces is the IIMARCH model. The acronym represents the initial letters of the information that a briefing should contain:

I nformation	What the briefing is about
I ntention	What the intention of the operation is
M ethod	How the intention will be achieved
A dministration	The administration issues surrounding the operation
R isk	What the weakness or threats are/what could go wrong
C ommunications	How communications will be maintained
H uman Rights	Are there any human rights issues

Record

An auditable record of the reasons for taking a particular investigative action must be kept. This will provide invaluable information for the initial and any subsequent investigator.

Remember, during the course of an investigation it can be advantageous to the investigation to contact the media or agencies outside of the police service. Your force will have a policy governing this.

Participating in planned operations (OP4) v1.00

There are several types of planned operations:

- standing Major Incident Files
- standard Operational Orders for regular events
- individual Operational Orders for specific operations

An operational order lays out:

- what it is intended to achieve
- who will do what and when
- resources required
- rendezvous points
- transportation
- prisoner and property handling
- anything else that may arise

Ensure you are aware of your role in the operation and the roles of others.

Standing major incident files cover incidents at premises which manufacture or store dangerous or volatile materials; premises likely to attract terrorist attention; premises associated with animal testing; or premises of high commercial value. There will also be major incident files to cover incidents at airports, harbours, docks, and railway or motorway incidents or air crashes.

Major incident files outline:

- the actions of the first officers at the scene
- the call out process for senior officers
- contacts with other emergency services or authorities
- cordons, etc

Standard operational orders for regular events cover events such as regular sporting events or special events that occur annually. They can vary from a large event utilising hundreds of staff and lasting several days to a small event lasting a few hours and involving one or two officers.

Individual operational orders for specific operations allow for forward planning so potential hazards and risks can be assessed and minimised. It should ensure that there are adequate resources available to cope with any foreseen escalation of the situation, to deal with the transportation of staff, detainees or seized property and to cover any escape routes, hotspots of disorder, etc. They are produced for specific operations yet they follow a set pattern as determined by the force.

Search Premises (OP5a) v1.03

Police powers to enter and search premises and seize property can generally be broken into two types – the **powers of search and seizure under warrant**, and **entry search and seizure powers without warrant**. The relevant code of practice within PACE covering entry, search and seizure is Code B. It is vitally important that the Codes of Practice are followed as any items of potential evidential value can be excluded by the courts if they were improperly obtained.

The right to respect for private and family life, and the right to protection of property, are two key principles of the Human Rights Act 1998 and therefore also have implications with regard to the justification of entry, searches and seizures.

Other than in the case of an emergency, the Community Relations Officer must be consulted before a search takes place which might have an adverse effect on police/community relations.

If, during a premises search, it becomes necessary to search an individual, then that search must be carried out under Code A (see **OP5b**).

Power of entry to search under warrant

Section 15 PACE deals with the **issuing of a warrant**. When you apply for a warrant you must state:

- the grounds on which you are making the application
- the legislation under which the warrant would be issued
- the articles or persons being sought
- the premises to be searched
- the object of the search
- if application is to enter and search on more than one occasion – the grounds for this and whether it is for an unlimited number or up to a maximum number of entries

You must also specify if the application is for a specific premises or if it is for multiple premises. If it is for multiple premises you should specify how many as reasonably practical; the person in occupation or control of these; why it is necessary to search these; why it isn't reasonably practical to specify all the premises.

Search warrants for indictable offences

Section 8 of PACE deals with warrants for indictable offences. To obtain such a warrant you should make an application to a Justice of the Peace who must then be satisfied that there are reasonable grounds to believe:

- that an indictable offence has been committed
- that material on premises is likely to be of substantial value to the investigation
- that the material is likely to be relevant evidence
- that it does not consist of or include items subject to legal privilege, excluded material or special procedure material
- that certain conditions apply

Execution of a warrant

If a warrant is not executed in accordance with Sections 15 and 16 PACE, then that execution is unlawful. A warrant to enter and search premises may be executed by any constable (or designated investigating officer) and the warrant may authorise persons to accompany the constable, and those persons have the same powers of entry, search and seizure as the constable they are accompanying, provided they are in company with and under the supervision of the constable.

The warrant is only valid for three months from its date of issue and its execution must be carried out at a reasonable time of day unless the purpose of the search may be jeopardised by entry at a reasonable hour. If the occupier is present at time of execution of warrant, you must identify yourself to the occupier and show the original warrant and give them a copy. If the occupier is not present, but there is someone who appears to be in charge of premises, show them the warrant and give them a copy of it. If there is no-one at the premises that fits either of these descriptions, then leave a copy of the warrant in a prominent place at the premises.

The search can only go as far as the purpose for which the warrant was issued – for example, if searching for a motor vehicle you would not be allowed to search through desk drawers.

Once executed the constable who has executed the warrant must endorse it as to whether the person or articles were found, and whether any articles were seized in addition to the articles mentioned in the warrant. Once the warrant has been executed or it becomes more than three months old, it must be returned to the originating source.

Powers of entry and search without warrant

Following arrest for an indictable offence – Section 18 PACE gives you power to enter and search only when an individual has been arrested for an indictable offence. The reasons for the search must be lawful and the officer must have reasonable grounds to suspect there is evidence on the premises relating to that or another indictable offence which is similar or connected. The premises

searched must be occupied or controlled by the arrested person. When a search is about to be carried out under Section 18 PACE you must, as far as practicable, explain the reason for the search to the occupiers. The search is restricted to evidence relating to the offence for which the person was arrested, or another indictable offence which is similar or connected. Authority for the search can only come from an officer of or above the rank of Inspector. A record of the grounds for the search and the type of evidence sought should be made.

Powers to enter and search premises after arrest

Section 32(2)(b) PACE provides a power to enter and search any premises where a person was when arrested for an indictable offence, or was immediately before being arrested. The search is restricted only to finding evidence which relates directly to the offence for which the person was arrested. There must be reasonable grounds to believe that there is evidence present. The search must be carried out at the time of arrest.

Section 17 PACE deals with the various types of offence which give rise to the power of entry. It gives a constable power to enter and search any premises for the purpose of executing a warrant of arrest or a warrant of commitment;

- arresting a person for an indictable offence;
- arresting a person for certain other offences;
- recapturing any person who is unlawfully at large;
- saving life or limb or preventing serious damage to property.

Except for the purpose of saving life or limb or preventing serious damage to property, the powers of entry and search conferred by Section 17 are only exercisable if you have reasonable grounds for believing that the person being sought is on the premises. The power only relates, in houses of multiple occupation, to those areas occupied by the person sought, or common areas.

As with all powers of entry you should initially endeavour to speak to the owner of the premises, explain the situation and hopefully gain consent to enter and search. If this is not practicable, either because the owner is not available, or to do so would hinder the arrest, then the premises may be entered and reasonable force may be used in doing so. The search may only be carried out to the extent that is required to find the person to be arrested.

Section 289 Proceeds of Crime Act 2002 gives you power to search any premises you are on lawfully, if you have reasonable grounds to suspect that there is cash which is either recoverable property or intended by any person for use in unlawful conduct, on those premises or vehicle.

General powers of seizure of property found in a search

Section 19 PACE gives you quite a broad ranging power, so the qualifying circumstances must be rigidly adhered to. You must be on the premises lawfully. If on the premises with the consent of the owner and the consent is withdrawn, you must leave immediately and may not seize any property. It is therefore important to use any other power available, as it will not be affected by consent.

When seizing property, you must have reasonable grounds to believe that the property has been obtained in consequence of the commission of an offence or is evidence in relation to an offence and that its seizure is necessary to prevent the property being altered concealed, lost or destroyed. If the premise being searched is a vehicle, then if necessary that vehicle can be seized in its entirety.

Section 294 Proceeds of Crime Act 2002 allows a constable, customs officer or accredited financial investigator to seize cash which they have reasonable grounds to suspect is recoverable property or intended by any person for use in unlawful conduct.

For full information on **packaging, retaining and seizing of evidence** see LPG1_4_04. The location of any items found, and their description, should be recorded in the finding officer's pocket notebook or premises searched record.

Preparing for a search

Having obtained authority to carry out the search, you need to decide who will be the officer in charge of the search. Then make a risk assessment of the premises – have they been searched recently and what happened on that occasion? What is known about the occupiers? Are they likely to acquiesce or will they become violent? How big are the premises in relation to the item being searched for? What exactly is being searched for – will a specialist search dog assist? The search team should comprise of the officer in charge, the exhibits

officer and those actually carrying out the search. If the search is more than just one room, a plan needs to be drawn up detailing who will enter and search each room. It is vital that this plan is adhered to and that the search team only go into the areas they are allocated.

Assuming the search is successful, are facilities available to transport property found away from the scene if necessary? Is it suitable for the detained property store at the local police station or will it need specialist or bulk storage? If persons are arrested, where are they to be taken? Is the custody officer aware of the search and all it may entail? Is contamination a problem, requiring an independent interview and processing team or can the officer(s) in the case carry this out?

Carrying out the search

Ensure you have the original and necessary copies of the warrant. Check that the premises you are about to enter are those named on the warrant. At the scene ensure that the occupier or the occupier's agent has been informed of the grounds for the search. Even if consent is given for the search, you still need to go through the process of executing the warrant. The search itself must be thorough, but at the same time conducted in an ethical manner with a minimum amount of damage or disruption being caused. All articles found must be recorded by the exhibits officer and in addition, as a matter of good practice, the officer finding the property should endorse their pocket notebook with the date, time, exact location and description of the property and to whom it was passed on.

Systematic search procedure

- Stand at the doorway of the room, look and listen for anything that may affect the search
- Identify anything that is visually obvious and relevant to the search :
 - evidence or other item such as a prominent health and safety issue
 - decide whether to delay the search until the health and safety issues have been dealt with (seek appropriate guidance as necessary)

- identified items/evidence should be seized, bagged and labeled appropriately
- specialist advice might be needed prior to the handling of electronic devices
- Where possible work in pairs, progressing from the door, around the room, dealing with each item in turn and concentrating on those in the centre at an appropriate time
- Ensure that not only the contents of furniture are searched in a thorough manner, but also the furniture itself, for example underneath a drawer for stolen credit cards stuck to the bottom
- The search of items, particularly clothing, should conclude with them being replaced in a tidy manner, even where initially found in an untidy manner
- Where possible return the room to the original state in which it was found on completion of the search

Search Considerations

- Ensure that the grounds, including all outbuildings and vehicles within the boundaries of the premises, are searched
- During the search of any building it may become apparent that a particular room, or part thereof, cannot be fully accessed. The search should continue past this point, unless there is good reason not to. The reasons must be recorded, noting the exact limitation. The person in charge of the search should be notified and a decision made on how to resolve this problem
- Where damage is to be caused to allow access to a restricted area, authorisation of a supervisor is required
- Complete any necessary search documentation accurately during the search
- Any equipment or documentation used in a search must be removed on completion of the search
- The person in charge of the search should request that the occupant accompany them for a final damage check of the premises. Any damage should be noted and witnessed by the occupier

- Record all actions, results and involvement of those involved in the search

Searching Premises and Counter Terrorism

How you can contribute to counter-terrorism whilst on patrol duties particularly whilst searching premises:

- The search of buildings is one of the most frequent operational deployments for police staff. Regardless of the background to and nature of the search, it must be completed in a thorough and systematic manner. The same systematic procedures are equally effective when applied to counter terrorism operations as well as other work such as drug and crime related searches.
- Items such as posters, leaflets, CDs, DVDs, books and other items may point towards allegiance to a particular group.
- Clothing, such as T shirts, sports shirts and sweatshirts with slogans and badges may also indicate terrorist affiliation.

After the search

Once the search has been conducted and all property/detained persons removed from the scene, the officer in charge must either leave a copy of the warrant, suitably endorsed, with the occupier or the occupier's agent, or leave a copy in a prominent place at the premises. The premises must be left secure and any necessary works to do this will be at the expense of the Police Authority. All paperwork associated with the search must be duly endorsed and filed in accordance with local procedure.

Searching Individuals (OP5b) v1.03

Powers to search individuals can be divided into two areas: powers to be used before arrest and those to be used after arrest.

- **Search pre-arrest**

Powers include:

- Section 1 Police and Criminal Evidence Act (PACE) 1984 – possession of stolen or prohibited articles

- Section 23 Misuse of Drugs Act 1971 – possession of controlled drugs
- Section 60 Criminal Justice and Public Order Act 1994 – power to stop and search in anticipation of or after violence
- Section 139 Criminal Justice Act 1988 – possession of a bladed or sharply pointed article or offensive weapon in a public place.
(Offence is contained within s.139, however the power to search is contained within s.1 PACE – s.1(8A))
- Section 139B Criminal Justice Act 1988 – possession of a bladed or sharply pointed article or offensive weapon on school premises

- **Search post-arrest**

There are different search powers to search a person who is under arrest, depending on whether the person is in custody at a police station or not yet arrived at a police station. The powers and procedures for searching people who are in custody at a police station are covered in OP8. Here we will only look at the following post-arrest power to search a person who has been arrested at a place other than a police station:

- Section 32 PACE 1984 - arrested person may present a danger to themselves or others or have concealed on them items to assist their escape or which might be evidence of an offence

Another way of dividing these powers is to consider if they require you to have formed 'reasonable grounds' (see LPG 1_2_02 and LPG 1_4_01) to suspect or believe something before you can search an individual. If we consider this question, the above list will be divided as follows:

Section 1 PACE 1984 Stop Search – (pre-arrest)

Constable has reasonable grounds to **suspect** that stolen or prohibited articles or bladed or sharply pointed articles or certain fireworks will be found (See LPG1_2_02)

- **Section 23 Misuse of Drugs Act 1971 – (pre-arrest)**

Constable has reasonable grounds to **suspect** that a person is in possession of a controlled drug in contravention of the Act (See LPG1_1_10)

- **Section 139 Criminal Justice Act 1988 – (pre-arrest)**
Constable has reasonable grounds for **believing** that a person in a public place is in possession of a bladed or sharply pointed article or offensive weapon. (See LPG1_2_03) (Offence is contained within s.139, however the power to search is contained within s.1 PACE – s.1(8A))
- **Section 139B Criminal Justice Act 1988 – (pre-arrest)**
Constable has reasonable grounds for **believing** that a person on school premises is in possession of a bladed or sharply pointed article or offensive weapon. (See LPG1_2_03)
- **Section 32 PACE 1984 (post-arrest)**
Constable has reasonable grounds for **believing** arrested person (arrested at a place other than a police station) may present a danger to themselves or others or have concealed on them anything which might assist them to escape from lawful custody or which might be evidence of an offence. (See LPG1_4_01)

Not all powers to search individuals require a constable to have reasonable grounds to suspect or believe. The two that we will be looking at are:

- **Section 60 Criminal Justice and Public Order Act 1994 (pre-arrest)**
Police officer of, or above, the rank of Inspector can authorise stop and search powers for offensive weapons or dangerous instruments to prevent incidents of serious violence or to deal with the carrying of such items if they reasonably believe it expedient to give such an authorisation. A constable can search for offensive weapons for dangerous instruments without the need for suspecting the presence of such items. (See LPG0_2_01)
- **Section 43 Power to Stop and Search People**
Under section 43 of the Terrorism Act 2000 a police officer may stop and search a person they reasonably suspect to be a terrorist, to discover whether that person has in their possession anything which may constitute evidence that they are a terrorist.

This power can be exercised at any time and in any location when the threshold of reasonable suspicion that the person is a terrorist is met. No specific authorisation is required unlike a section 47A stop and search.

- **Section 47A Stop and Search Vehicles and People**

Under Section 47A of the Terrorism Act 2000, a police officer not below the rank of Assistant Chief Constable (Commander in the City of London or Metropolitan Police District) can authorise, in writing, the use of special stop and search powers if he or she reasonably suspects:

- an act of terrorism will take place, and
- considers the authorisation of powers is necessary to prevent such an act

The specified area or place must be no greater than is necessary to prevent such an act and the duration of the authorisation must be no longer than is necessary to prevent such an act.

Please note: these powers include Police Community Support Officers (PCSOs) providing they are under the supervision of a police officer; however, the power does **NOT** extend to searching **PEOPLE** for PCSOs

Deciding whether to search/continue a search of an individual

The Human Rights Act 1998 gives effect to the European Convention on Human Rights which sets out to protect civil liberties within a democratic society. One of those liberties is Article 5 – The Right to Liberty and Security. When you search a person using a pre-arrest power to search, you have a power to detain that person for the purpose of conducting the search. Consequently you are depriving that person of their liberty even though they are not under arrest. You should ask yourself the following questions:

- is what I am doing lawful?
- is what I am doing necessary, justifiable and proportionate?
- am I being professional and accountable in my actions?

Other factors may affect your decision to search an individual. You should carry out a **risk assessment** (see IND05) and be aware of the **Conflict Management Model**. Remember, to keep yourself safe, **communication** is key throughout, both with the individual and with your control room. You may decide that it is inappropriate to conduct a search at that time or place.

Remember, you must be able to account for your decisions and be prepared to justify your actions. If you do decide to search, you need to consider your location.

Conducting a search

Code A of the PACE Codes of Practice (see LPG1_2_02) covers the essential information to be given to an individual before they are searched. The mnemonic **GO-WISELY** can be used as a prompt only in relation to the use of stop and search powers.

The **search of a person in a public place** carries certain restrictions which are outlined in Code A of the PACE Codes of Practice (see LPG1_2_02) – i.e. the removal of a person's jacket, outer coat or gloves (JOG). One search power that you might deal with allows a constable to require the person to remove more than 'JOG' in public view. This is:

- Section 60AA of the Criminal Justice and Public Order Act 1994 which empowers the removal of any item worn to conceal identity (when s.60 authorisation is in force which can be authorised by an officer not below rank of Inspector) (see LPG0_2_01).

Where, on reasonable grounds, it is considered necessary to conduct a more thorough search beyond the removal of 'JOG', **this must be done out of public view**, e.g. in a police van or at a police station, can only be made by an officer of the same sex and may not be made in the presence of anyone of the opposite sex unless the person being searched specifically requests it.

Searches that expose intimate parts of the body can be carried out only at a nearby police station or other nearby location which is out of public view, but not in a police van. If you have to ask the person to remove clothing that exposes intimate parts of the body, then care should be taken to allow the person to redress and cover that area before another intimate area is exposed.

An **intimate search** consists of a physical examination of a person's body orifices other than the mouth and is covered in full in OP8.

Ethical searching and gender considerations

Some forces have a policy forbidding searches by officers on a person who is not the same gender as themselves. Check your own force policy regarding this matter before you conduct any searches. The Gender Recognition Act 2004 has implications for the legal and ethical searching of individuals.

The issue of ethical searching is not restricted to searching a person who is of a different gender to you, it applies to searching everyone. It is advisable to tell the person where you are going to search next. When searching near sensitive areas such as the breasts, groin and buttocks it can help to use the back of your hand to feel for items that may be concealed rather than using the palm of the hand in a pat or squeeze method. There is particular advice for the searching of Trans people.

Conducting a safe and thorough search of a person

A popular search method is known as the 'quadrant search technique'. A systematic approach will increase your safety. For example, 85% of the world's population is right-handed which means that there is a much higher chance of a weapon being carried / being concealed in a right-hand pocket. Of course, you should never rule out the possibility of a weapon being concealed anywhere on the person, but it would make sense to begin your search on the right-hand side of the person's body unless your information or suspicion tells you otherwise. When searching pockets, consider asking the person what items are in them first. Don't just put your hand in the pocket; there may be items in there such as a sharp knife to an upturned syringe.

Waistbands should be gently eased away and checked behind; remember to check all round the waistband and between any belt and the waistband. Collars should be gently eased away to check behind and inside the collar.

Extra care should be taken when searching around the foot area. Check socks by lifting the tops away from the ankle and gently squeezing around the ankle. Shoes cannot be removed in the street based search, however you should check around the top and the sole of the shoe.

Finding personal and connected property

The term 'connected property' refers to any property that may be evidence of an offence or have some connection to an offence.

Section 19 PACE states that if you have reasonable grounds for believing that it is evidence of an offence or has been obtained in consequence of the commission of an offence, then you have a power to seize it if you also believe that it is necessary to do so to prevent it being concealed, lost, altered, damaged or destroyed.

Ensuring that the person's personal items are handled with care is equally as important as dealing with connected property.

Exercising appropriate control of an individual

Searches of an uncooperative person should be carried out as per a search of a co-operative person, but with heightened awareness. You can use reasonable force when searching. You should already be aware of the following pieces of legislation that allow you to use reasonable force in the lawful execution of your duty (see IND01):

- Common law (not strictly legislation)
- Section 3 Criminal Law Act 1967
- Section 117 PACE 1984

However, if a person is particularly resistant and uncooperative, searching them may be difficult and you may run the risk of losing valuable evidence. Having risk assessed the situation you may decide that the more appropriate course of action is to transport the person back to the police station and conduct the search in a safe environment.

Anticipating and responding to contingencies appropriately

There may be times when another incident occurs, i.e. control contact you and you have to prioritise what you are doing. You should already have informed the control where you are and what you are doing, therefore control room staff will have already been able to take this into account before they have contacted you.

Alternatively, you may suddenly witness something more serious taking place. Quickly explain this to the person. You will still need to complete a search record at your first opportunity even if you have not physically started the search, as you have detained the person for the purpose of a search.

You would also need to tell the control room as quickly as possible what is happening and the new incident that you are now dealing with so that they can continue to support you appropriately.

If the person that you are searching suddenly becomes ill or you realise that they are injured and require first aid, this must be your priority.

Wherever possible you should try and check the person on PNC before you conduct a search. The more information that you know about a person, the more it can help you to risk assess what you are dealing with. You may receive a response from your control room which effectively tells you to 'back off'; make some polite excuse and exit the situation immediately without raising suspicion. Control may tell you the person is currently the subject of surveillance, or are currently under investigation by another department, force or agency. At the more dangerous level, the person that you are dealing with could be suspected of being involved in terrorist activities or be an escaped prisoner believed to be armed and dangerous. When you have safely left the incident and are in a position to do so, make a pocket notebook entry of the interaction, a description of the person, including any person that was with them and any vehicle that was being used. You may need to make a statement at a later stage.

You may find that during your search, your grounds for the search cease. Explain this to the person and thank them for their cooperation.

Inform the individual of the result of the search

If you find something on the person during your search which you believe to be evidence of an offence or obtained in consequence of the commission of an offence, you should point this out to the person. Be careful about asking any questions that may be classed as an interview. If your search is pre-arrest, you may have to caution and arrest the person if you have found something that leads you to suspect an offence. If your search is post-arrest and the item that

you find is connected to the offence for which you have arrested that person, you should point out the item to them.

If you have found something that appears to be evidence of a different offence you still need to point out the item to them, but you may also have to inform the person that they are now under arrest on suspicion of a second offence, and what that offence is. You may not find anything on the person, or find that it is an innocent item that is possessed. In this case you should inform the person that no offences have been disclosed and thank them for their co-operation.

Securing evidence at a search of an individual – Refer to LPG 1_4_04 for dealing with exhibits.

Search documentation at the search of an individual

If your search is conducted under a stop and search power, Code A PACE Codes of Practice require that when you have completed the search you must make a record of the search at the time, unless there are exceptional circumstances which make this wholly impracticable, and give a copy of it immediately to the person being searched, see LPG 1_2_02. A search form is not required for searches that are conducted post-arrest under Section 32 PACE 1984. A record of this search will be made in the custody record. However, as with all searches that you conduct you should make a pocket notebook entry as soon as is reasonably practicable. You may find that your own force have local documentation that caters for other types of searches.

Search Vehicles (OP5c) v1.00

Introduction

The subject of searching vehicles is not a new one. However as those who choose to break the law become more sophisticated then the professionalism and methods adopted to detect offences must also be improved and become more methodical.

In this module you will be looking specifically at searching vehicles.

It would be useful, as part of your studies to undertake the e-learning package 'Standard Searching' available on the Managed Learning Environment (MLE).

The definition of a search is:

"The capability to locate specific targets using intelligence assessment, systematic procedures and appropriate detection techniques"

(Police National Search Centre from "Military Engineering Volume II, Field Engineering Pamphlet No 6A)

Purpose of a Search

The purpose of a search is to locate any item, whether a person or object, which is known or believed to be inside a specific vehicle.

Systematic Search

There are 5 distinct areas utilised for the purposes of searching.

- Interior
- Boot or cargo area
- Engine compartment
- Outside
- Underneath

These areas are further classified as 'clean' and 'dirty' areas for obvious reasons and clearly, whilst searching the interior of the vehicle will have possible dangers attached, particular care must be taken when touching the interior of the engine compartment.

Terrorism

Research conducted into the major international counter-terrorist operations in the UK between 1995 and 2001 shows a number of common themes in the nature of criminality involved:

- Fraudulent entry into the UK
- Use of cloned credit cards for fraud
- Sale of cloned credit cards

- Use of cloned cards for clandestine communications
- Multiple identities
- Vehicle crime involving high value vehicles

Health and Safety

There are many hazards that face members of the police service in the routine work they undertake and many of these are encountered during the process of searching vehicles; you will have come across these during your visit to the Standard Search e-learning programme but it does no harm to refresh your memory on a subject that could have a devastating effect on your health, and ultimately your career.

The fact that you may need to cause a vehicle to stop has inherent dangers and the process of stopping vehicles is not without risk. In addressing these risks you should consider contacting the Communication Centre before or immediately after stopping the vehicle, always conduct a Police National Database (PND) check on the vehicle and occupants, paying particular attention to any 'warning markers' present.

If you are accompanied during the search by a colleague be sure to let each other know of any developments or 'finds' - this will ensure a thorough job is done and nothing is missed.

Searching vehicles, particularly those that have been involved in an accident or have been 'burnt out' can be not only dangerous but fatal; heat, corrosive fluids, fire and noxious gases are all associated dangers.

Finally, don't forget the dangers of 'sharps' and discarded substances in conjunction with contamination by blood and other bodily fluids; if in any doubt whatsoever contact a vehicle specialist or your supervisor.

Search Open Areas (OP5d) v1.00

Introduction

This module deals with the subject of searching open areas which can be the most challenging of searches owing to both the issues surrounding loss of

evidence due to adverse weather conditions, and the process of searching for a relatively small object of forensic evidence in a large and difficult area.

At this point it would be useful to take the e-learning package 'Standard Search' available on the Managed Learning Environment (MLE)

Legislation

The power to search premises is covered by Section 15 and 16 of the Police and Criminal Evidence Act 1984. This power extends to searching, if necessary and justified, the premises adjoining the property.

Power to Seize Property

Section 19 PACE governs the seizure of property under certain circumstances. If you are searching any premises under any statutory power or with the consent of the occupier, you may seize:

- anything covered by warrant, and
- anything which you have reasonable grounds for believing is evidence of an offence or has been obtained in consequence of the commission of an offence which you are investigating or any other offence and that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed (Section 19(2) and 19(3) PACE).

Risk Assessment

When any search is conducted, appropriate steps must be taken to ensure the health and safety of you and your colleagues and to ensure that valuable evidence is not lost; this usually involves a risk assessment.

A risk assessment does just that; assesses the possible risk given all the factors and possible pitfalls of the event.

For further information see:

Student Notes IND05 – Ensure your own actions reduce the risks to health and safety

Definition of a Search

The definition of a search is:

“The capability to locate specific targets using intelligence assessment, systematic procedures and appropriate detection techniques”

(Police National Search Centre from "Military Engineering Volume II, Field Engineering Pamphlet No 6A)

Search Parameters

Following the successful application for a warrant to search you must:

- Ensure that the location corresponds with the details on the search authority
- Landowners/occupiers must be treated with courtesy, and their possessions with respect
- The open area may be a crime scene and should be treated as such
- The open area may be subject to environmental protection orders and inhibit what search techniques can be deployed

Counter Terrorism

The search you are carrying out may well be one that relates to the subject of terrorism. However, if it is not, it is just as important to be aware of items you may discover that are terrorism related; you may wish to re-visit the section on searching for terrorist items within OP5c.

Post Search Evaluation

As with the other sessions we have visited it is imperative for our own development and those of our organisation to evaluate the operation we have just completed; a 'hot' debrief should be carried out immediately after the event and time taken at a later date to carry out a full evaluation of the events that took place.

Remember to also address the important issue of the submission of intelligence.

Search Missing persons (OP5e) v1.00

The ACPO definition of a missing person is:

'Anyone whose whereabouts is unknown whatever the circumstances of disappearance. They will be considered missing until located and their well-being or otherwise established.'

The investigation into missing persons begins at the point of first notification to the police where as much detail as possible must be established. Every report should be assessed to identify the level of risk. This requires that officers and police staff ask relevant questions that identify any potential risk to the missing person so that an appropriate response can be made.

Risk assessment must be the subject of continuous review to ensure that the information that is currently available is properly considered.

Potential Links to Serious Offences

The majority of missing person enquiries are quickly resolved. In a few cases, however, the report of a missing person is the first step in a major crime case.

Therefore the initial stages of any missing person enquiry should commence on the basis that the case may escalate into a serious crime enquiry. Some examples of missing person related crime are:

- Homicide - If in doubt, think murder
- Abduction - If there appears to be an immediate threat of harm to a young person, consider implementing Child Rescue Alert
- Child abuse
- Sexual exploitation
- Human trafficking

Failure to apply such thinking in past cases has led to the loss of valuable investigative opportunities and could ultimately result in failure to trace the missing person or to establish sufficient evidence to convict a perpetrator.

The status of the relationship between the missing person and the person making the initial report can also be important. Experience suggests that it would be wrong for investigators to always assume such relationships are stable.

Child Rescue Alert (CRA) is a partnership between the police, the press and the public. Its aim is to locate abducted children and bring them to safety by using the media to promptly publish details about an abducted child's disappearance to the public. When an alert has been broadcast, the public will be asked to call **0300 2000 333** if they have information that may help in the investigation.

First Officer Attending Responsibilities:

Making immediate enquiries

The first officer needs to assess the circumstances of the disappearance in order to make a judgement regarding the risks. The depth of that information will vary according to the risk assessment. The decision, the evidence supporting it and the source of the information should be recorded on the appropriate form.

The first officer to attend should:

- notify a supervisor immediately of a high risk case
- complete the National Missing Person Reporting Form (NMPRF)
- gather sufficient information to enable effective and thorough investigation
- circulate the person reported missing on PNC
- circulate the person on local information systems
- identify the person who is the point of contact for the police and assess levels of support required for the family
- assess the environment/credibility of informant
- make background enquiries and telephone relatives / places frequented by the missing person to ask them to make immediate searches
- obtain any further information or physical evidence, such as dental charts / records, requested by the Senior Investigating Officer (SIO)

Conducting an initial search

A high percentage of missing persons are found hiding or asleep at location. After gathering the relevant information, the first officer should conduct a search of the premises and its environs. They should ensure that the environment is safe and that the search must be proportionate, legal, accountable and necessary (PLAN). It may be worthwhile recruiting help from friends, family and neighbours in order to achieve maximum coverage. Any search must be carried out thoroughly.

Below are some general principles of searching:

- The minimum standard for a search of premises is an 'open door search'
- Searches should work on a 3D basis (looking up and down and side-to-side)
- Officers should search voids and be conscious of space and proportion
- Evidence must be preserved - searchers should either have appropriate gloves or mark the find for "scenes of crime" staff
- Define the search area – this could include garden/sheds/garage etc.
- Take nothing at face value, check and confirm visually
- Certain factors, such as the weather, will need to be considered.
- Seek advice/guidance from supervisor or escalate to a Police Search Advisor (PoISA) if necessary
- Review, re-prioritise and record actions/requests throughout the search

The mnemonic 'SCENARIO' provides an aide-memoire of the search framework:

- **S**pecify item sought
- **C**onfirm the location
- **E**stablish circumstances of disappearance
- **N**ote factors influencing discovery
- **A**nalyse possible strategies
- **R**aise search strategies
- **I**dentify priority search
- **O**ngoing assessment

During the initial search, evidence which might reveal motives and lifestyle information, such as diaries, photographs, computers, mobile phones and evidence of substance abuse, should be examined.

If an initial search is unsuccessful, the next level of search will be conducted **using only** search trained teams.

Risk assessment - Every report should be assessed to identify the level of risk. This requires that officers and police staff ask relevant questions that identify any potential risk to the missing person so that an appropriate response can be made.

High Risk
<p>The risk posed is immediate and there are substantial grounds for believing that the subject is in danger through their own vulnerability; or may have been the victim of a serious crime; or the risk posed is immediate and there are substantial grounds for believing that the public is in danger.</p> <p>This category requires the immediate deployment of police resources and a member of the BCU senior management team or similar command level must be involved in the examination of initial enquiry lines and approval of appropriate staffing levels. Such cases should lead to the appointment of an SIO. There should be a press/media strategy and/or close contact with outside agencies.</p>
Medium Risk
<p>The risk posed is likely to place the subject in danger or they are a threat to themselves or others. This category requires an active and measured response by police and other agencies in order to trace the missing person and support the person reporting.</p>
Low Risk
<p>There is no apparent threat of danger to either the subject or the public. In addition to recording the information on the PNC, the police will advise the person reporting the disappearance that following basic enquiries and unless circumstances change, further active enquiries will not be carried out by police. The missing person's details will be passed to National Missing Persons Helpline (NMPH) in line with the national protocol. Low risk missing persons cases, however, must be kept under review as risk can increase with the passage of time.</p>

Where a missing person has been identified as being high or medium risk, action becomes an obligation at every stage of a missing person investigation.

Detailed and accurate information must be recorded about the circumstances of the disappearance and the reasons for making the report. The risk identification should determine the speed and scale of the initial police response.

Remember if in doubt think the worst until the contrary is proved

The risk assessment process should be in writing and transparent. It should result in:

- a) Clear information being provided to those with an interest in the enquiry and on how they can update it and be updated
- b) An appropriate classification with the grounds and reasoning for this
- c) An indication of the police level of response and point of contact
- d) The identification of interested parties – family, friends, work and other agencies, e.g., social services, schools

Risk assessment is a critical initial appraisal and as the enquiry continues it must be revisited. It provides the basis for both priority and lines of enquiry.

Your initial enquiries may enable you to identify the possible reason for the person going missing. Examples include:

Lost Person: This is a person who is temporarily disorientated and would wish to be found, e.g., someone who has gone walking and does not know where they are.

Missing Person who has voluntarily gone missing: This is someone who has control over their actions and who has decided upon a course of action, e.g., wishes to leave home or commit suicide.

Missing Person under the influence of a third party: Someone who has gone missing against their will e.g. abduction or murder victim.

Prepare, conduct and evaluate interviews – witness/victim (OP6a) v1.00

These notes are concerned with the practice and procedures surrounding the interview of witnesses and victims. All circumstances are different where evidence is to be gathered from witnesses whether they are victims of crime or not. It should be borne in mind that the persons involved are unique individuals and their needs and feelings are different from those of any other person. Dealing with witnesses at what may be the most difficult and a stressful time of their life requires tact, diplomacy and sensitivity in addition to other skills.

Define an interview and its purpose – Victims and Witnesses

Victims and witnesses are fundamental to the criminal justice system. They provide the information, intelligence and evidence to investigators which enable offenders to be brought to justice.

Major sources of evidence in police investigations are interviews with witnesses and victims. These should be as accurate and detailed as possible. It is the information provided by witnesses and victims that may enable you to validate or challenge a suspect's version of events.

Obtaining information, gathering evidence and seeking the truth are the primary goals of the investigative interviewer. Good communication skills are essential to effective victim and witness interviewing.

Communication is the sending and receiving of signals. There are six ways in which a communication transaction can take place:

Words

1 Verbal communication

Non-verbal Communication

- 2 Intonation
- 3 Word spacers
- 4 Positions and gestures
- 5 Distance
- 6 Dress and ornaments

Questioning

Five main types of question:

- open-ended
- specific
- forced-choice
- multiple
- leading

Principles of Investigative Interviewing

1. Aim - The aim of investigative interviewing is to obtain accurate and reliable accounts from victims, witnesses or suspects about matters under police investigation.
2. Fairness - Investigators must act fairly when questioning victims, witnesses or suspects. Vulnerable people must be treated with particular consideration at all times.
3. Investigative Mindset - Investigative interviewing should be approached with an investigative mindset. Accounts obtained from the person who is being interviewed should always be tested against what the interviewer already knows or what can reasonably be established.
4. Questioning - When conducting an interview, investigators are free to ask a wide range of questions in order to obtain material which may assist an investigation.
5. Impact Recognition - Investigators should recognise the positive impact of an early admission in the context of the criminal justice system.
6. Duty and Truth - Investigators are not bound to accept the first answer given. Questioning is not unfair merely because it is persistent.
7. Right to Silence - Even when the right to silence is exercised by a suspect, investigators have a responsibility to put questions to them.

PEACE

The mnemonic PEACE stands for:

Planning and Preparation

Engage and Explain

**Account, Clarification and
Challenge**

Closure

Evaluation

PEACE provides the structure for an investigative interview. A well-planned and carefully conducted interview has a good chance of obtaining accurate and reliable information. The PEACE framework helps you do that.

Plan a time and place for the interview (Plan & Prepare)

The ideal time for an interview will be a compromise between interviewing soon after the offence and waiting for the optimum physical and mental condition of the witness. Other factors such as operational priorities, shift times and convenience of the interviewee will also affect the decision making process. The only way to address these factors is to communicate with the interviewee to establish the relevant factors.

There are four factors to consider when choosing a location:

- health and safety of all concerned
- what situation will be conducive to providing the best evidence
- what is best for the interviewee
- what is best for interviewer

Attending a witness or victim interview without the necessary materials at best appears unprofessional at worst incompetent. You should adequately prepare yourself and ensure you have the necessary resources to carry out the interview.

To establish a working relationship you should treat witnesses and victims as individuals with a unique set of needs. You can do this by personalising the conversation.

Plan an interview strategy in consultation with people who have a legitimate interest (Plan & Prepare)

The National Occupational Standard for interviewing victims and witnesses groups persons whom an officer may have to consult regarding an interview into four main categories:

- interview supporters
- medical advisors
- interpreters
- other relevant personnel

You should identify these people and make the necessary contact.

You should know points necessary to prove the offence, or possible offences, in question. The need to cover these points should not dominate the interview by controlling the flow of information. Neither should they artificially constrain or distort the account of events given by an interviewee. The interviewee should be encouraged to provide a full explanation of the events.

You should construct a written interview plan, this summarises the aims of an interview and provides a framework on which to base your questioning. Such a plan will give you the confidence and flexibility to conduct a professional and effective interview.

Material which has been gathered during an investigation should be subjected to a periodical formal evaluation. This will allow a review of the progress of the investigation.

Prepare a victim or witness interview (Plan & Prepare)

You will need to decide the order of interview if there are a number to be conducted. The objectives and timing of any interview should be clearly defined. First of all you need to decide whether or not an interview with a particular person is necessary now, or whether there are more important priorities to attend to at this time in the investigation.

It is essential to identify vulnerabilities of witnesses, whether adults or children. You must then put effective measures in place to address these during any investigation and pre-trial preparation and during and after any criminal trial.

When an individual is identified as being a potentially vulnerable witness a further detailed assessment is required to formulate the most appropriate method of interview that meets the needs of the individual and those of justice. A supervisory officer or specialist interviewer usually carries out this assessment.

Recognition of vulnerability may be particularly difficult when interviewing takes place shortly after an alleged offence, due to the stress and immediacy of the action.

If in doubt, and where practicable, always consider an early assessment.

All witnesses, particularly vulnerable or intimidated witnesses, can receive support at all stages of an investigation. There are three types of witness supporter; interview supporter, pre-trial supporter and court witness supporter. Remember - vulnerable witnesses include those suffering from fear or distress in relation to testifying in the case.

Recognising vulnerable witnesses

Recognition of vulnerability may be very difficult when interviewing takes place shortly after an alleged offence, due to the stress and immediacy of the action.

If a witness exhibits confusion, some initial clarification may also be necessary to establish whether it could be:

- intoxication through intake of alcohol or drugs
- withdrawal from drugs
- mental ill health
- impairment of intelligence and social functioning (learning disability)
- a physical disability or disorder
- incapacity through age
- fear or distress

Recognising Intimidated Witnesses

For example a witness may:

- be reluctant to give a statement or report the crime
- be afraid to identify offender(s)
- appear nervous and/or traumatised
- express concerns about being involved in the case
- be unwilling to give evidence in court

Maintain security and welfare of those present

You should always carry out a risk assessment before commencing the interview. The location and circumstances of any interview should be continually assessed for suitability against risk. The interview should be discontinued if there is potential of physical or emotional harm to a witness and a more suitable time or place selected.

Commence the interview (Engage and Explain)

You should examine some of the basic characteristics of conversation which are applicable throughout all phases of the interview. In particular:

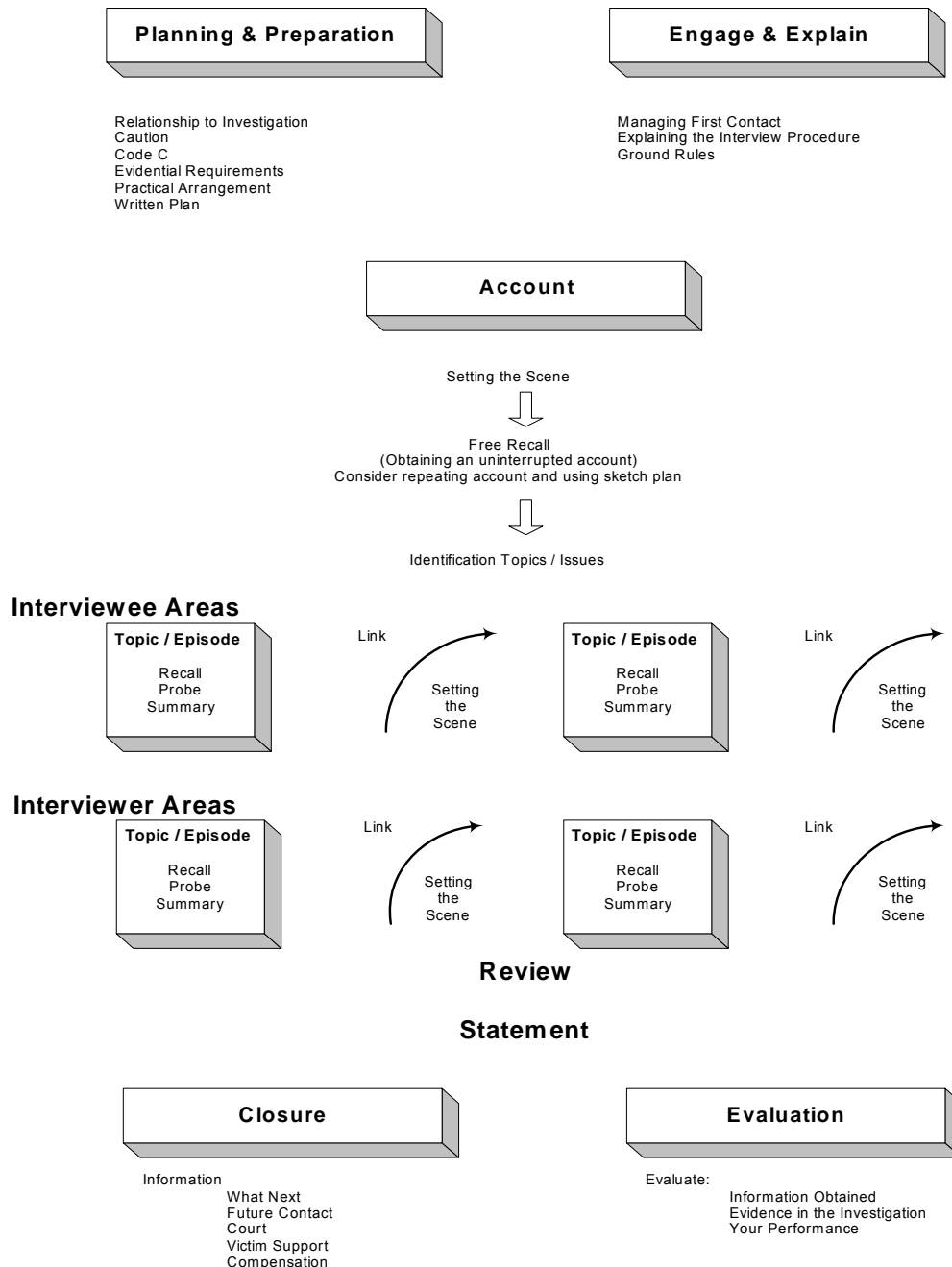
- how to personalise the interaction
- the need to listen actively
- taking turns to speak and the need to allow the interviewee's contribution
- how topics flow within the conversation
- appropriate use of questions
- monitoring the progress of an interview

As you engage the interviewee in conversation you can begin to explain the purpose of the interview and the form it will take. This will consist of three main elements:

1. Reasons for the interview
2. Routines that will be adopted
3. Outline of the interview

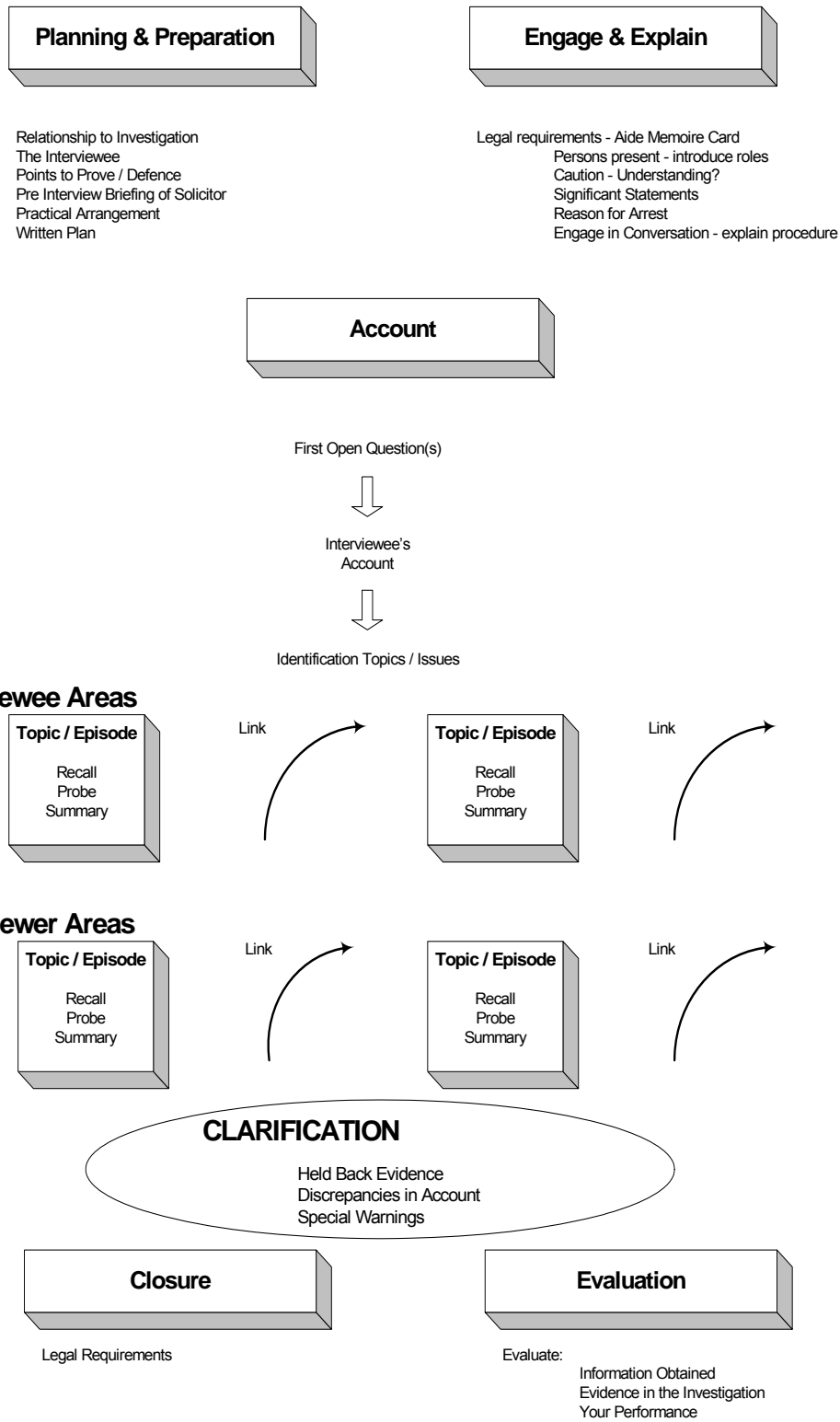
Conduct the interview – Obtain victims or witnesses account (Account)

Free Recall Interview Model



Remember that consideration of a witness’s needs or requirements as part of your interview plan will produce better results.

Conversation Management Model



ADVOKATE

- A** Amount of time under observation.
- D** Distance from the eyewitness to the person or incident.
- V** Visibility – including time of day, street lighting etc.
- O** Obstructions – was there anything obstructing the view?
- K** Known or seen before – did the witness know, or had they seen the suspect before?
- A** Any reason to remember – was there something specific that made the person or incident memorable?
- T** Time lapse – how long since the witness last saw the suspect?
- E** Errors or material discrepancies.

Not all of these points will be applicable to every statement. However, you must consider each point and record those points that do apply as part of the witness statement.

Officer Statement

You will complete a formal written witness statement to:

- record all possible information before you have time to forget it
- provide information on which investigative decisions are made
- explain police action should it be questioned
- help in cross-examination at court
- assist to refresh your memory
- use the Magistrates Court Act to save you attending court

Refer to student notes in relation to LPG1_4_04 Exhibits and LPG1_4_05 Giving Evidence, so that you know what to include in a witness statement. You may also find LPG0_7_05 Types of Evidence useful.

Witness or victim statement

The recording of witness or victim information should be precisely that – the recording of information obtained by interview. The completion of the MG11 occurs at the end of the account phase of the PEACE model. The interview and recording of information are separate parts of the process.

You should ensure that you complete all sections and include all material gathered.

Close the interview – (Closure)

This should be done in a courteous and professional manner. When the interview is clearly drawing to its close, your aim should be to:

- ensure that there is mutual understanding about what has taken place
- verify that all aspects have been sufficiently covered
- explain what will happen in the future
- facilitate a positive attitude towards providing accurate and reliable information in the future

Remember that most witnesses and victims will not have been through this experience before and will therefore, in appropriate cases, appreciate information regarding:

- victim support
- whether or not they will have to attend court
- claims for compensation
- crime prevention issues

Legislation Policy and Guidelines Module LPG1_3_07 concerns victim needs and the Code of Practice for the Victims of Crime. It is essential that you understand and comply with your obligations under this code.

Evaluate the interview (Evaluation)

In the Evaluation phase, a number of questions must be considered:

- what information has been obtained?
- how does the account given in this interview match other available evidence?
- what action needs to be taken?
- what further enquiries now need to be made?
- how did you perform and how could you develop your skills?

Your previous plan may have to be revised. Information obtained during the interview may suggest the need for an urgent reassessment of priorities.

Evaluate own performance

To improve your interviewing skills you need to learn from experience.

This means that in addition to evaluating the evidence you must also evaluate your own performance:

- what did I do well?
- what could I have done better?
- what areas can I develop?
- how do I acquire these skills?

Evaluate the whole PEACE process.

Establish where your interviewing can be improved and set goals to improve it where necessary.

Victim Code of Practice

Legislation Policy and Guidelines Module (LPG) 1.3.07 concerns victim needs and the Code of Practice for the Victims of Crime. It is essential that you understand and comply with this code. Please refer to the student notes and the Code itself for more information.

Victim Support

Victim Support is an independent national charity with staff and volunteers who are specially trained to provide victims with free emotional support and practical assistance, including:

- someone to talk to in confidence
- advice on victims' rights
- information on police and court procedures
- advice about compensation and insurance
- links to other sources of help such as counselling

Prepare for, conduct and evaluate suspect interviews (OP6b)

v1.02

A suspect is defined as: someone who the police would have to caution under paragraph 10, Code of Practice C Police and Criminal Evidence Act (PACE) 1984 if they wanted to interview them.

Section 11.1A of PACE Code of Practice C states:

'An interview is the questioning of a person regarding their involvement or suspected involvement in a criminal offence or offences which, under paragraph 10.1, must be carried out under caution. Whenever a person is interviewed they must be informed of the nature of the offence, or further offence.'

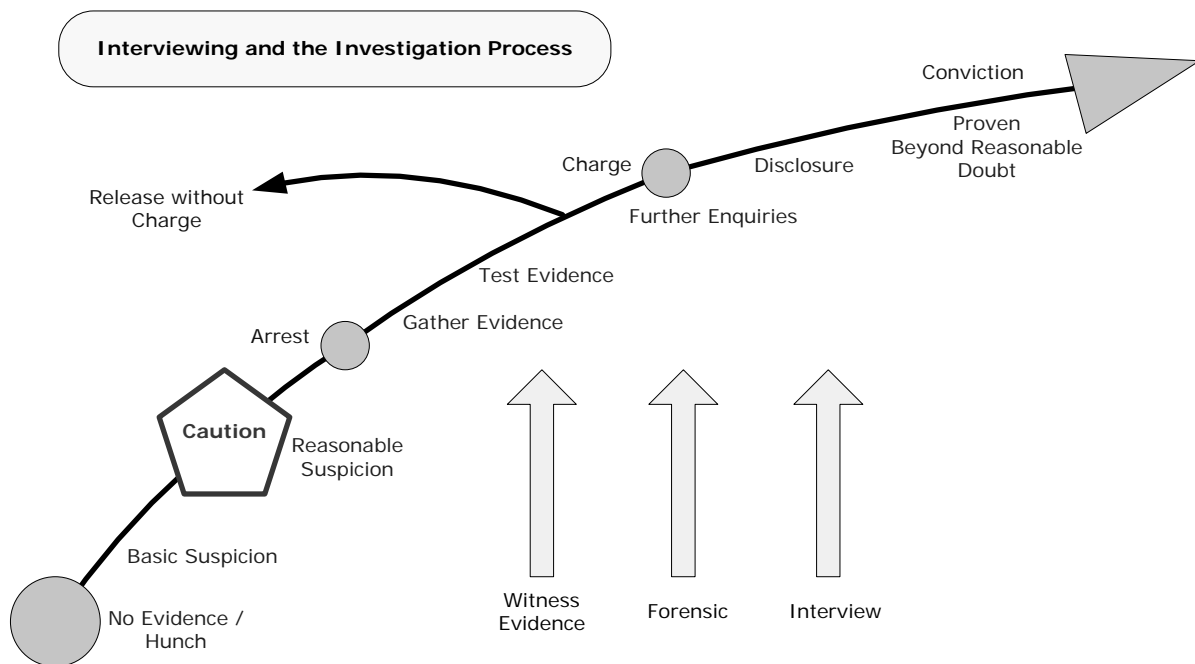
Questions regarding or appertaining to offences following caution (see LPG 1_7_20) constitute an interview. If you do not reasonably suspect an offence has been committed there is no requirement to caution. You may continue to ask questions that may raise the level of suspicion. When you arrive at a point where you have grounds to suspect an offence, you should caution prior to asking any questions about an offence or further questions if the answers given provide grounds for suspicion.

Basic principles

Interviews will help to determine the facts on which later decisions are taken. They seek to gather and record information from a suspect, test their account and examine in detail any versions of events supplied or discrepancies with other evidence. A major source of evidence in police investigations is interviews with witnesses and victims. It is the information provided by witnesses and victims that may enable you to validate or challenge a suspect's version of events.

Therefore, you should investigate fully the accounts given by witnesses or victims before interviewing any suspect.

An admission from a suspect may go some way to supporting a subsequent prosecution and conviction but should not be solely relied on to guarantee it. Evidence should always be sought in the interview that will help validate any confession that is made.



Core skills of investigative interviewing

- planning and preparation
- listening
- establishing a rapport
- questioning

Seven principles of investigative interviewing

1. Role – the purpose of investigative interviewing is to obtain accurate and reliable information in order to discover the truth about matters under police investigation.

2. Open Mind – investigative interviewing should be approached with an open mind. Information obtained from the interviewee should always be tested against what the interviewing officer already knows or what can reasonably be established.

3. Fairness – when questioning anyone, an officer must act fairly in the circumstances of each individual case.

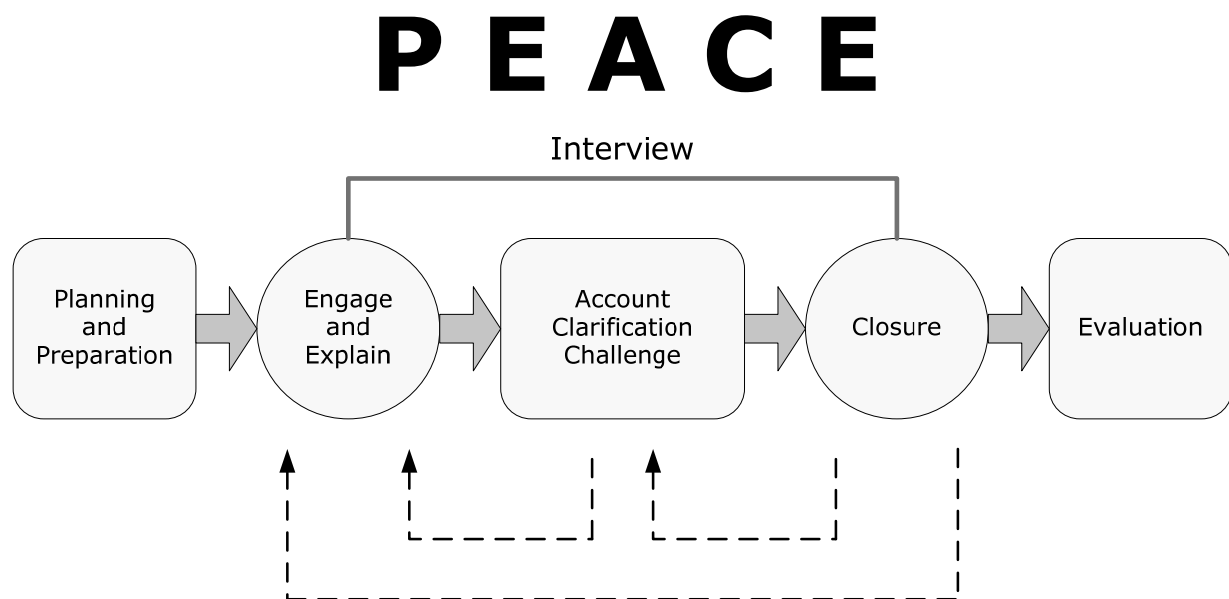
4. Duty and truth – the interviewer is not bound to accept the first answer given. Questioning is not unfair merely because it is persistent.

5. Right to silence – even when the right of silence is exercised by a suspect the police still have a right to put questions.

6. Questioning – when conducting an interview, officers are free to ask questions in order to establish the truth; except for interviews with child victims of sexual or violent abuse which are to be used in criminal proceedings, they are not constrained by the rules applied to lawyers in court.

7. The vulnerable – vulnerable people must be treated with particular consideration at all times.

The PEACE framework



Planning and preparation

If you have to conduct more than one interview

- consider the order you will carry them out in
- consider the timing of interviews within an investigation
- define your objectives for an interview
- consider the interview requirements and strategy
- think about where you will conduct the interview

Dependant on your force facilities and the circumstances you may need to consider or seek advice whether to record the interview using a secure digital network.

There are a number of points to be considered in the planning and preparation phase of all interviews:

1. How this interview might contribute to the investigation
2. Facts known about the interviewee and what needs to be established
3. Legal requirements
4. Offences and 'Points to Prove'
5. Practical arrangements
6. Pre-interview briefing of solicitor and management of active defence
7. Prepared statements prior to interview and charge
8. Considered statements post-charge

Make a written interview plan that summarises the aims of an interview and provides a framework on which to base your questioning. You should consider including:

- the range of topics you plan to cover
- the points necessary to prove the possible offence under investigation
- any points which may be a defence for committing the offence(s) under investigation
- introduction of exhibits
- evidence which suggests the suspect might have committed the offence
- plans to handle information or evidence that emerges from the interview not previously known
- any other points arising from your notes

Engage and explain

Engage and **Explain** is the first phase of an actual interview. During this phase you begin to establish a relationship between yourself and the interviewee.

Engage is the first step in order to encourage conversation. It helps to have an understanding between interviewer and interviewee.

Explain is used because the interviewee must understand the purpose of the interview. This will consist of three main issues:

1. Reasons for the interview
2. Routines that will be adopted
3. Outline of the interview

Establishing the truth

All interviewees need to know that your primary purpose is to establish the truth of the matter under investigation. Advise interviewees to:

- tell all without editing anything out
- tell it their own way
- give as much detail as possible
- not to fabricate or make up answers
- to concentrate

Suspects' rights and procedural requirements

The information that you must give in accordance with Code C and E is usually provided on an aide-memoire card. You must:

- inform the suspect that the interview is being recorded
- request those present to introduce themselves and explain their role and rank where necessary
- give the place, date and time
- explain that they will be given a notice about what happens to the recording media
- caution the suspect
- inform them of the right to free legal advice which can be via telephone
- where external audible monitoring is available you should explain the procedure in accordance with HO Circular 50/1995

Your manner should remain conversational, even when giving the caution. Ensure the suspect understands the caution. If they do not you should then explain it in your own words (Code C) until they do.

If you plan to visually record a suspect interview you will need to comply with Code F. Ensure you seek advice if you think an interview may need to be visually as well as audibly recorded.

Significant statements or silence

You are required under Codes C and E at the very beginning of the interview to put to the suspect any 'Significant Statement or Silence' that occurred prior to it.

Account, clarification and challenge

There are a number of essential processes you must go through to obtain an accurate and reliable account:

- **Obtaining the suspect's own uninterrupted account**

Use open questions or statements to encourage the interviewee to give a full response. They should be probing enough to demand a response.

Break down the questioning of their account interviewee's areas into manageable topics or episodes. Summarise what has been said about each aspect of their recall to check that your understanding is accurate, before moving on to the next.

Be fully prepared for a suspect refusing to answer any questions at the start of an interview and at any point during it. Ask all the relevant questions as if the interviewee were responding and give time for each question to be answered.

- **Expanding and clarifying their account**

Clarification is required when you find inconsistencies in the interviewee's account or when you are unclear about what the interviewee is saying.

Where there is a second officer in an interview, you should allow them the opportunity to question areas they may have identified as being ambiguous or in need of clarification.

- **When necessary challenging the interviewee's account**

There are three aspects you should consider when challenging an interviewee's account:

1. timing your challenge
2. adopting a clarification seeking approach
3. asking for an explanation of the discrepancies

You must decide whether you need to use special warnings (see LPG 1_7_26) and, if so, you must follow the correct procedures to deliver them.

Closure

The interview should be brought to a close when you have properly concluded that no purpose will be served by continuing. When the interview is clearly drawing to its close, your aim should be:

- to ensure that there is common understanding about what has taken place
- to verify that all aspects have been sufficiently covered
- to explain what will happen in the future
- to facilitate a positive attitude towards providing accurate and reliable information in the future

Reviewing the account tests whether closure is appropriate and consolidates the information provided in the interview. Explain to the interviewee that you are going to summarise what has been covered in the interview and that this will give them an opportunity to confirm, alter, clarify, deny or add anything they wish. Do not hesitate to raise additional issues that occur to you during your summary and be on the look out for signs that the interviewee might have more to say. Closure provides the opportunity to re-enter **Engage** and **Explain** or the **Account** stage. You should consider further arrest and necessity criteria and consider cautioning again if further offences are uncovered.

Once you have summarised their account you should ask the interviewee if they have any questions. Do not discuss the matter of bail or sentencing. Point out that this is a matter for the custody officer and the courts.

Having summarised the interviewee's account and answered any questions you are then in a position to **close** the interview. There are a number of points that need to be covered at this stage. In particular you must:

- give the time that the interview finishes
- give a notice to the suspect regarding their right to a copy of the recording (Code E)
- seal the master recording in the presence of the suspect (Code E)

Evaluation

You need to evaluate from the interview:

- the information obtained
- the whole investigation in the light of the information obtained
- your performance, either alone or jointly in the case of more than one interviewer

Other considerations

Consider when and where to interview. PACE Code of Practice C covers the minimum continuous rest period that a detainee must be allowed. It also states that the detainee must be fit enough to be interviewed. Vulnerable suspects shall be treated as always being at some risk during an interview and these persons may not be interviewed except in accordance with paragraphs 11.18 to 11.20 of PACE Code C.

As far as practicable interviews shall take place in interview rooms which are adequately heated, lit and ventilated.

A suspect whose detention without charge has been authorised under PACE, because the detention is necessary for an interview to obtain evidence of the offence for which they have been arrested, may choose not to answer questions but police do not require the suspect's consent or agreement to interview them for this purpose. If a suspect takes steps to prevent themselves being questioned, e.g. by refusing to leave their cell to go to a suitable interview room or by trying to leave the interview room, they shall be advised their consent or agreement to interview is not required. The suspect shall be cautioned and informed if they fail or refuse to co-operate, the interview may take place in the cell and that their failure or refusal to co-operate may be given in evidence. The suspect shall then be invited to co-operate and go into the interview room.

PACE requires interviews to be recorded. Police premises usually have interview rooms and equipment to at least audio record interviews. Some have audio and video facilities. For an interview away from police premises basic recording materials will be required, namely pen and paper. You will also need to consider **cultural issues**.

Urgent interviews – PACE Code C paragraph 11.1 covers situations in which an urgent interview may take place.

There are three specific exceptions when you may question a suspect after arrest and before returning to the Police Station. They are: - if the delay would otherwise be likely to:

- (a) lead to:
 - interference with, or harm to evidence connected with an offence, or
 - interference with or physical harm to other people, or
 - serious loss of or damage to property;
- (b) lead to alerting other people suspected of committing an offence but not yet arrested for it; or
- (c) hinder the recovery of property obtained in consequence of the commission of an offence.

The above list is similar to the three reasons for searching a prisoner after arrest. The interview must cease once the relevant risk has been averted.

Consultation may take place with a number of persons as part of your dealings with a suspect, for example:

- Legal Representatives
- Appropriate Adults
- Medical Advisors
- Custody Officer
- Officers Required For Legal Authorities
- Other Relevant Personnel

Fitness to be interviewed

The following conditions may make a person unfit for interview:

- intoxication (drink or drugs)
- behaviour
- age
- mental ill health
- physical disorder

Points to prove and legal defence

It is necessary to examine elements that constitute commission of the offence. This may be difficult when an element of mens rea is required. It will be necessary to question the suspect in an attempt to establish the state of mind of the suspect at the time of the alleged offence.

Investigative evaluation and mindset

Investigative evaluation should identify:

- what is known
- what is not known
- consistencies
- conflicts

Evidential evaluation should consider:

- the overall strength of the case
- whether sufficient evidence exists against the offender to proceed to charge

Further preparation

The more information you gather prior to the interview, the greater understanding you will have of the investigation and the suspect. Methods of gathering further information include:

- intelligence checks
- Police National Computer (PNC)
- information from other officers
- interviews with co-accused
- the M.O. (Modus Operandi) used by the suspect in relation to previous offences may be relevant to the offence under investigation

Legal advice

PACE Code C Paragraph 6.8 states that a detainee who has been permitted to consult a solicitor shall be entitled on request to have the solicitor present when they are interviewed unless one of the exceptions in paragraph 6.6 applies.

PACE Code C Paragraph 3.21 states that anybody attending a police station voluntarily to assist with an investigation may leave at will unless arrested. If it is decided that they shall not be allowed to leave, they must be informed at once that they are under arrest and brought before the custody officer, who is responsible for making sure they are notified of their rights in the same way as

other detainees. If they are not arrested but are cautioned the person who gives the caution must, at the same time, inform them they are not under arrest, they are not obliged to remain at the station but if they remain at the station they may obtain free and independent legal advice if they want.

Working with legal advisors

In order to understand and appreciate the role of the legal advisor you should be fully conversant with PACE Code C in relation to the questioning of suspected persons. Points to remember:

- be fully prepared for whatever stance the legal advisor decides to take
- you do not have to agree to or be controlled by any demands or requests made of you in respect of the stance the legal advisor takes
- remain clear and focused on what you are trying to achieve while remaining calm throughout the process

Pre-interview briefings – you as the officer will have to consider:

- material to disclose
- material to withhold
- testing of evidence
- recording the information disclosed
- potential for conflict
- the working relationship with the legal advisor
- the method and timing of the briefing

Note: It cannot be over-emphasised that it is a decision for the police as to what is and what is not included in the pre-interview briefing for a legal advisor.

Taking a suspect for interview

PACE Code C Paragraph 12.1 states that: 'If a police officer wants to interview or conduct enquiries which require the presence of a detainee, the custody officer is responsible for deciding whether to deliver the detainee into the officer's custody.'

So, if you wish to interview a suspect you require the custody officer's permission. When you take responsibility for the suspect you also take responsibility for ensuring that the PACE Codes of Practice are adhered to.

Security

Conduct a risk assessment of the location before taking the suspect there. This will give you the opportunity to remove any articles that have been left by persons who have used the room previously. Remember, a pen can become a weapon; a spare chair can become a missile. It is not unknown for exhibits to be left in an interview room.

Decide on your position and that of the interviewee and legal advisor (where relevant) in the room. You will require access to the controls of any recording devices used. Interview rooms often have emergency buttons to summon assistance. These should be near to the officer and difficult for the suspect to reach, for obvious reasons. **Continue to risk assess throughout the interview process.**

Opening the interview (suspect in custody) – several Sections and Notes of the PACE Code of Practice C apply.

- remind the suspect of their right to legal advice
- after cautioning the suspect, put to them any significant statement of silence that occurred in the presence and hearing of a police officer or other police staff before the start of the interview and which have not been put to the suspect in the course of a previous interview. Ask the

suspect whether they confirm or deny that earlier statement or silence and if they want to add anything

- if an appropriate adult is present, inform them that they are not expected to act simply as an observer and the purpose of their presence
- audio record interviews in relation to indictable or triable either way offences
- inform the suspect of the recording process

Aide-Memoire for Audibly Recorded Interviews

- Prior to the interview, make sure you are properly prepared and understand the points you need to cover and the relevant provisions of the Codes of Practice (PACE 1984)
- Remember the first principle of Investigative Interviewing: “The role of investigative interviewing is to obtain accurate and reliable information from suspects, witnesses or victims in order to discover the truth about matters under police investigation.”

Introduction on Commencement or Re-Commencement of an Interview

If using removable media: show the suspect that the media is new and unused by removing the seal and unwrapping in the suspect’s presence. **Load the recorder in sight of the suspect and any others present; set it to record/digital record and state:**

“This interview is being **a)** audibly recorded **or b)** recorded using a secure digital network **and** that recording has commenced.

The date is: _____.

The time is: _____ (note this time on seal if recording on removable media).

I am (rank and name) _____ attached to _____
Police Station.

The other officer(s) present is/are (rank and name)

_____ attached to _____

Police Station.

We are in an interview room at _____ Police Station.

I am interviewing _____ (ask suspect to state full name).

(**Note** - 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 b) if the interviewer reasonably believes recording or disclosing their name might put them in danger. In these cases interviewers should use warrant or other identification numbers and the name of their police station).

There is no other person present" **or** "Also present is:

- a. **Solicitor/legal representative** - Ask person to state name, firm/practice and status (practising solicitor /accredited or probationary representative) under Code C 6.12.

and/or

- b. **Appropriate adult** - Ask person to state name and relationship with suspect, then inform them:

"You are not expected to act simply as an observer and the purposes of your presence are first, to advise the person being questioned and to observe whether or not the interview is being conducted fairly, and secondly, to facilitate communication with the person being interviewed."

"This interview is being audibly recorded and it may be given in evidence if your case is brought to trial."

“At the conclusion of the interview, I will give you a notice explaining what will happen to the recording.”

Explain right to legal advice to suspect:

“I must remind you that you have the right to free and independent legal advice. You can speak to a solicitor in private at any time of day or night and this legal advice is free. You can speak to a solicitor in person. If you do not want to speak to a solicitor in person, you can speak on the telephone. If you do want legal advice, the interview can be delayed unless certain exceptions apply. Do you want to speak to [a] [your] solicitor?”

If the suspect has declined to speak to a solicitor either in person or on the telephone, ask:

“Would you like to tell me why you do not want legal advice, you are not obliged to give any reasons?”

Once it is clear that the suspect does not want legal advice, you should cease to ask the suspect to give reasons. Confirm the position by asking:

“Are you quite sure that you do not want to speak to a solicitor in person or on the telephone?”

If the suspect previously asked for legal advice but has changed his or her mind and an Inspector or above has authorised the interview to proceed, confirm the position, e.g. by saying:

“I understand that previously you asked for legal advice but you since changed your mind. You spoke to Inspector/or above (name) _____ and told him/her that you no longer wanted legal advice because (state reasons) _____ and the Inspector (or above) then gave authority for the interview to go ahead. Do you agree that this is correct and that you are willing to be interviewed without speaking to a solicitor?”

If the suspect asked for legal advice but the interview is to proceed before advice is received, state reasons e.g.:

“You asked for legal advice but this interview will proceed BEFORE you speak to a solicitor because:

- a. “Superintendent/or above (name) _____
 - i. has authorised delaying your access to legal advice.”
 - ii. has reasonable grounds for believing that the subsequent delay might lead to interference with, or harm to, evidence connected with an offence; interference with or physical harm to other people, serious loss of, or damage to property; alerting other people suspected of having committed an offence but not yet arrested for it; hinder the recovery of property obtained in consequence of the commission of an offence and you are to be interviewed now in order to obtain sufficient information to avert risk.
 - iii. has reasonable grounds for believing that awaiting the arrival of the solicitor you asked for would cause unreasonable delay to the investigation.”
- b. “Inspector/or above (name) _____ has agreed that the interview can go ahead because:
the solicitor you asked for [cannot be contacted] [has indicated he/she does not wish to be contacted] [has been contacted but declines to attend or speak to you] AND you declined to ask for the Duty Solicitor” or “the Duty Solicitor is not available.”

Begin the interview:

“You do not have to say anything but it may harm your defence if you do not mention, when questioned, something which you later rely on in court. Anything you do say may be given in evidence”.

Note: Be prepared to explain this caution in your own words if the suspect does not appear to understand its meaning.

At the start of the interview, put to the suspect any **significant** statement or silence which occurred prior to the audibly recorded interview and ask the suspect whether he/she confirms or denies that earlier statement or silence and wishes to add anything. Any other previous questions and answers, including **relevant** comments may also be dealt with similarly. (**Note:** If a written statement is produced this must be taken and read back to the interviewee).

Concluding the Interview

"Do you wish to add anything further or to clarify any point or anything you have told me?"

"Here is a notice (Form) which explains your entitlement to a copy of the recordings used in this interview."

Invite suspect and any solicitor and appropriate adult present to read the notice. After notice has been read, invite suspect/appropriate adult to sign it and give copy to suspect, then state: -

"This interview is concluded at _____ on
_____".

(Also note time on label if using removable media).

Turn off the recorder (if using removable media seal in the suspects presence).

Master tape

- complete the master tape seal before placing it around the cassette tape case
- obtain the signatures of all persons present
- write the Unique Tape Reference on the label and Exhibit Reference
- explain how the suspect may obtain a copy of the tape
- sign the custody record and state the interview times
- follow the procedures for the Master Tape Retention

Pocket notebook

Write in your pocket notebook the following information:

- that the interview has taken place
- that it was audibly recorded (or contemporaneously written)
- start time
- date
- duration (or end time)
- master recording's identification number

A record of a taped interview (**ROTI**) or record of a visually recorded interview (**ROVI**) will be prepared in full file cases on form MG15 and must be produced as an exhibit in an officer's witness statement.

In some cases a **full verbatim transcript** will be required.

Opening the interview (persons attending a police station voluntarily)

Anybody attending a police station voluntarily to assist with an investigation may leave at will unless arrested. If it is decided they shall not be allowed to leave, they must be informed at once that they are under arrest and brought before the custody officer, who is responsible for making sure they are notified of their rights in the same way as other detainees. If they are not arrested but are cautioned as in section 10, the person who gives the caution must, at the same time, inform them they are not under arrest, they are not obliged to remain at the station but if they remain at the station they may obtain free and independent legal advice if they want.

Recording interviews (non-audio)

All interviews must be recorded. These should be recorded contemporaneously where possible and at the conclusion the suspect should be invited to read through the notes and sign each page of them. The person interviewed should be asked to state or write any comments regarding accuracy of the notes.

Further arrest

If further offences come to light that require arrest, the suspect should be further arrested and reason, grounds and a non technical and accurate

explanation of the circumstances must be provided. PACE also requires that they be cautioned.

After the interview

After interviewing the suspect and obtaining evidence by questioning, the custody officer will probably wish to review the grounds for continued detention.

The custody officer will need to know the result of the interview, particularly in terms of evidence. The custody officer must determine if:

- there is sufficient evidence to charge; or,
- insufficient grounds to continue the detention; or,
- still reasonable grounds for believing that his detention without being charged is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning.

The custody officer will require a succinct and accurate update of the evidence obtained and the state of the investigation. Custody officers have many duties and are responsible for all the prisoners in their care. This should be borne in mind when supplying information to them.

If there is sufficient evidence to charge a suspect, the custody officer will direct this course of action. The suspect will need to be released or bailed if there are insufficient grounds for further detention. The custody officer will require details of continuing enquiries to secure and preserve evidence or obtain evidence by interviewing in order to authorise continued detention. The custody officer will require notifying of:

- further arrests or offences under investigation as a result of the interview
- change in risk or health or anything that affects the prisoner's welfare
- allegations made by the suspect
- complaints against police
- any other information that may be relevant

If you have any doubt as to whether information is relevant, bring it to the attention of the custody officer and let them decide.

Arrest and report suspects (OP7) v1.02

Deciding whether to arrest, detain or report for summons

As every situation is different, it is impossible to apply rigid rules to this decision making process. You will have to determine how to proceed after evaluating all the circumstances surrounding the particular incident and then choose the best course of action. You will not only be using your decision making skills to do this but also applying your discretion. Powers of arrest are dealt with in LPG1_4_ (1) 'Arrest and Detention'.

The decision you make must be based on an objective consideration of the circumstances surrounding an event. Your decisions and discretion must not be affected by prejudice, bias or your own values.

Types of legal authority to arrest

- Arrest on warrant
- Common law
- Statute law

A warrant is a court order that actually tells the police officer to go and arrest the person. When there is no warrant, officers must be sure that they have a power to arrest the person without such a warrant, for example, using powers under common law and statute law.

The Police and Criminal Evidence Act (PACE) 1984 provides both the police and any other person the power to arrest under certain conditions.

Grounds to support an arrest

It is essential that you have a good understanding of the following terms and can apply them to a variety of situations:

- reasonable grounds for suspecting
- reasonable grounds for believing

Before deciding to arrest somebody you should first of all establish that you have the power to arrest. Secondly, you should establish through effective investigation that you have the grounds to arrest the person for the offence.

Lastly, you should always consider if an arrest is necessary and whether or not arresting the person is the best course of action. You could, for instance, report the person for summons instead.

Possible consequences of an unlawful arrest

To arrest someone without the grounds or legal authority means that the arrest is unlawful. This could lead to the arresting officer being investigated for misconduct, possibly resulting in the officer being dismissed from the force, being required to resign or receiving a written warning or final written warning. An unlawful arrest would probably lead to an investigation being thrown out of court.

Following a course of action that is justifiable and proportionate

The situations in which it is lawful to deprive someone of their liberty are set out in the Human Rights Act 1998, Schedule 1, Article 5 (the right to liberty and security of the person). The public has a right to expect its police officers to behave in a manner that protects each individual's basic rights within the law. Your authority to deprive a person of their liberty should be used with caution and impartiality. Questions to ask yourself at all times are :

- are my actions lawful?
- are my actions necessary and justifiable?
- are my actions proportionate?
- are my actions non-discriminatory?

Proportionate use of police powers

Any police action must be proportionate to the lawful aim pursued. Another way of explaining it is to ask, "Would the action be using a sledgehammer to crack a nut?" or "Is there a less restrictive alternative?" This is the principle of **proportionality**. When making an arrest or exercising stop and search powers you will inevitably impinge people's rights and freedoms. These rights may be interfered with as long as certain conditions apply. To justifiably use police powers that impinge people's rights, your actions must be lawful, necessary and proportionate to the aim pursued.

Lawful: there must be a clearly defined legal basis that gives you the power to act in the manner you propose.

Necessary: there is a clear, legitimate and justifiable reason to use the power.

Proportionate: the power used is the least intrusive alternative employed to achieve the objective.

When making decisions about what actions to take or powers to use, you must make sure that the decisions you make are fair. The following mnemonic will help you to PLAN and justify your actions by thinking about the following:

P - proportionality
L - legality
A - accountability
N – necessity

Methods of identification

There are six methods of visually identifying a suspect; these are:

- street identification
- identification by photographs
- video identification
- identification parade
- group identification
- confrontation by a witness
-

The above procedures are covered in full in OP7_SN.

R v Turnbull: Court of Appeal [1976]

In 1976 the Court of Appeal considered the case of R v Turnbull and created guidelines on the subject of identification, which have been followed in subsequent cases. Whenever a case depends wholly or substantially on the correctness of one or more identifications of the accused which the defence allege to be mistaken, as was the case in R v Turnbull, the trial judge must warn the jury of the special need for caution before convicting on a reliance of the correctness of such evidence. The judge should direct the jury to consider that the reason for the warning for caution lies in the fact that a mistaken witness

could still appear convincing and that a number of witnesses could all be mistaken.

When recording this description in any written statement, the above points must be covered. The following mnemonic 'ADVOKATE' is designed to assist you to remember these points.

Amount of time under observation
Distance
Visibility
Obstruction
Known or seen before? If so...
Any reason to remember
Time
Errors

First Description

The Police and Criminal Evidence Act (PACE) 1984 Codes of Practice Code D sets out the guidelines for recording a suspect's description as first given by a potential witness. It states that a record must be made and kept in a form which enables details of that description to be accurately produced from it, in a visible and legible form, which can be given to the suspect or the suspect's solicitor, and, unless otherwise specified, must be made before the witness takes part in any identification procedures.

Other methods of establishing and verifying the identification of a suspect

There are other non-visual methods of identifying a suspect, for example:

- fingerprints and palm-prints
- footwear impressions
- non intimate samples
- intimate body samples

Reporting for summons - Dealing with people in an ethical manner

For your conduct to be ethical the decisions you make must be based on objective consideration of the circumstances surrounding the event. They must

be free from bias and prejudice and not affected by your own values. This means that they must never be based on the following irrelevant factors:

- Skin colour
- Gender
- Accent
- Sexual orientation
- Life style

Informing a person of the suspected offence and the action that you are taking

The basis of many criminal prosecutions that you will generate will begin with you reporting for summons the person responsible. In this way, you are formally notifying a person that you suspect them of having committed the alleged offence and, as a result, the facts of the matter will be reported, and may result in a summons being issued to that person to appear at court to answer the allegations being made. There is no requirement when reporting a person for summons for you to quote the Act and Section relating to the offence they are suspected of having committed. For most people this could cause confusion and for some it may also appear oppressive.

You will need to administer the 'now' caution (see below), as this comes at the conclusion of the process when the person is being told that they might be prosecuted for an offence. It tells the person what is happening and also means that the officer cannot ask any further questions about the offence, except under exceptional circumstances.

Cautioning a person

There are three types of caution that you will use:

- when questioned
- now
- restricted

These cautions are different in both the wording and when you will use them. It is essential that you fully understand each caution, when it is used, when you do not need to caution a person and when you may need to caution a person more than once.

Informing the person of the procedures involved

You should be in a position to explain this to them. What will happen is that they will receive a summons, usually through the post in the next few weeks. This will give full details of the offence for which they have just been reported, sufficient for them to seek legal advice if they wish. The summons will also give the time, day, date of the hearing and the magistrates' court.

Issuing a fixed penalty notice

There are two types of Fixed Penalty Notice (FPN), an Endorsable Fixed Penalty, where the person receives penalty points on their licence plus a fine, and a Non-Endorsable Fixed Penalty, where they receive a fine only. When you detect a road traffic offence to which a FPN applies, three options are available to you:

- issue a Fixed Penalty Notice
- report the person for summons
- give a verbal warning

In certain situations a fourth option is available. This involves issuing a Vehicle Defect Rectification Notice.

Although you are issuing a FPN, you are still dealing with the offender in a similar way to when you report a person for summons. This is because they may later elect to go to court, or they may ultimately refuse to pay the notice.

You will need to give the person certain information. The following list is not a fixed template, but may help you to work through what you might say:

- administer the 'when questioned' caution as soon as you identify an offence and an offender if you are going to ask any questions in connection with the offence beyond establishing the identify of the person and ownership of the vehicle
- point out the offence and inform the person that they are being reported
- inform the person that you are dealing with the matter by way of a FPN
- inform them that they have 28 days from today (date of issue) to pay the FPN
- alternatively, they have 28 days from today (date of issue) to elect to have the case heard in court by completing the rear of the form

- warn them of the consequences if they fail to pay the FPN within the prescribed time
- point out the address on the form where they should forward their payment to or elect trial
- administer the 'now' caution
- if you are not asking any question that requires you to administer the 'when questioned' caution, you can either administer the 'now' caution at the start when informing the person of the action you are taking, or at the end

Conducting interviews

Whenever a person who is not under arrest is initially cautioned (or is reminded that they are under caution) because you intend to ask questions about the suspected offence(s), they must at the same time be told:

- they are not under arrest, and
- they are not obliged to remain with the officer (Code C 10.2)

If a suspected person who is not under arrest attends a police station and you caution them, in addition to the above two rights, they are also entitled to free legal advice and you must advise them of this. In this situation you should immediately inform a supervising officer so that the required forms can be completed to obtain legal advice. The entitlement to free legal advice only applies to people who are at a police station and have been cautioned.

A significant statement or silence

A 'significant' statement or silence is one which appears capable of being used in evidence against the suspect, in particular;

- a direct admission of guilt, or
- failure or refusal to answer a question, or
- to answer it satisfactorily;
- which might, allowing for the restriction on drawing adverse inferences from silence, give rise to an inference under the Criminal Justice and Public Order Act 1994

Note: A 'significant silence' can only arise after a person has been cautioned, but a 'significant statement' can arise at any time.

Dealing with a significant statement, silence or unsolicited comment

You must make a written record of any comments made by a suspected person, including unsolicited comments, which are not in context of an interview but which might be relevant to the offence. This record must be timed and signed by the maker. Where practicable you must give the person making the comment the opportunity to read the record and to sign it as correct, or to indicate the respects in which they consider it inaccurate. Normal practice is to record these statements and silences in your pocket notebook (Evidence and Actions Book in the MPS) and ask the person in question to read and sign your entry.

At the beginning of an interview, after cautioning the suspect, the interviewer must put to them any significant statement(s) or silence(s) which occurred in the presence and hearing of a police officer or civilian interviewer before the start of the interview and which have not been put to the suspect in the course of any previous interview. The interviewer should then ask the suspect whether they confirm or deny that earlier statement or silence and if they want to add anything. Failing to record significant silences, significant statements and relevant comments accurately is a breach of PACE Codes of Practice. Such a breach and inaccuracy of evidence could become the basis of:

- a defence in criminal proceedings (e.g. challenge the admissibility of evidence)
- an appeal or to seek judicial review, or
- civil proceedings for damages

Using communication and officer safety techniques when reporting for summons

As a general guide you should:

- speak slowly and clearly to the person so that they may better understand what you are saying
- maintain good eye contact without appearing overbearing

- listen to what they have to say, as communication is a two-way process
- check the facts and that you have heard and understood things correctly before you make any decisions on how to deal with the situation
- explain why they are being reported for summons and what happens next
- be prepared to explain things again if necessary
- consider the tone of your voice; you need to maintain control without being too authoritative
- remain polite and professional at all times

If the person you are dealing with becomes aggressive or abusive you may need to consider the five step appeal, from a 'Simple Appeal' through to 'Action'. You should ensure that you are familiar with these five steps and remember that the basic proposition in law is that the use of force is unlawful unless it is justified.

Maintaining the welfare of those present

You should first evaluate the situation and look for hazards, asking yourself who might be at harm? This includes you. You should always be alert to the possibility of danger and weapons. Simply because it may be a minor traffic offence where two people have failed to wear seat belts, it does not automatically rule out any possibility of a threat. This is not to suggest that you treat everyone as though they present an immediate threat to you and approach them in a defensive stance. What it does mean is that you should always stay alert and keep an open mind. You do not know who these people are, where they are going or what they might have just been doing or are intending to do. The level of awareness that you should maintain in order to minimise risk and protect yourself and your colleagues should always be the same, whether you are reporting someone for summons, making an arrest or simply talking to a member of the public.

Safeguarding evidence

You will often be the first police officer to arrive at an incident and every incident you attend is potentially the scene of a crime. Each scene that you attend will be different and should be treated as such. Minute amounts of material that could connect an individual to a crime will be present at a scene. This will have occurred when an offender, victim or witness has come into contact with the

scene and has left various traces behind. Dependent on the circumstances and the types of trace, conclusive or corroborative evidence to link an individual to a scene may be obtained. These traces can be:

fingerprints	footwear marks
DNA	fibres and hairs

and many others, and are called 'contact trace evidence.'

Types of evidence when reporting for summons or making an arrest

- There are other types of evidence, other than forensic evidence, that may be present when reporting a person for summons or making an arrest, depending on the offence being dealt with. These could be anything from tyre marks at a road collision, stolen property to the injuries sustained in an assault.

Seizing property

When lawfully on premises, Section 19 of the Police and Criminal Evidence Act (PACE) 1984 gives a power to seize anything which you have reasonable grounds for believing is evidence of an offence, or has been obtained in the commission of an offence (with the exception of items subject to legal privilege), if it is necessary to prevent their concealment, loss, alteration, damage or destruction. An easy way to remember this is to prevent CLADD:

Concealed
Loss
Alteration
Damage
Destruction

An officer can arrange to photograph or copy, or have photographed or copied, any document or other article that may be seized. Anything seized under Section 19 PACE 1984 can be retained:

- for use as evidence at a trial for an offence
- to facilitate the use in any investigation or proceedings of anything to which it is inextricably linked (an example would be the memory board of a computer)

- for forensic examination or other investigation of an offence

in order to establish its lawful owner when there are reasonable grounds for believing it has been stolen or obtained by the commission of an offence.

You must ensure that anything seized is correctly packaged.

Completing documentation

The essential information in relation to the person is as follows:

- surname and all forenames
- gender
- age
- date of birth
- place of birth
- ethnicity
- occupation
- full address incl post code

This personal information should always be obtained. It ensures that information is recorded correctly against an individual, and any subsequent intelligence checks or data used from other sources is checked against these details to confirm that it is the same individual at all times; it will also form the basis on which others will make a decision whether to prosecute or not.

Essential information relating to the offence will always include the following:

- time, day of the week and date of the offence
- location of the offence
- details of the offence
- evidence to prove the offence
- details of any witnesses involved
- all replies to caution
- any significant statements or silences

Bringing a person before a court

Basically there are three ways in which a person can be brought before a criminal court - by summons, arrest on warrant and arrest without warrant.

De-arrest (Section 30(7) PACE)

There are some occasions after a person has been arrested when you might release them before arriving at the station. If the arrest reason under which the accused person is arrested no longer applies, then the person should be released and dealt with by summons fixed penalty notice if applicable or warned regarding their future conduct. Section 30(7a) and (8) of PACE provides that:

“A person arrested by a constable at a place other than a police station must be released if a constable is satisfied before the person reaches a police station that there are no grounds for keeping him under arrest. The constable must record the fact that this has happened.”

Section 24A PACE 1984 Arrest without warrant – other persons

This Section of PACE 1984 is about the powers of arrest that apply to a person other than a constable; therefore Section 24A PACE applies to PCSO staff.

Making an Arrest

- deal with people in an ethical manner
- inform people that they are under arrest and the grounds for arrest
- searching people when it is lawful and necessary
- conducting interviews in accordance with legislation
- taking responsibility for any evidence and personal property transported with a detained person
- releasing a person without delay where necessary
- completing accurate and legible documentation

Legal rights of individuals arrested

The custody officer must inform a person under arrest at a police station of their right to:

- have someone informed of their arrest
- consult privately with a solicitor free of charge (in person or by telephone)
- consult the Codes of Practice

The person must be informed that these rights need not be exercised immediately. They are continuing rights which may be exercised at any stage

during the period in custody. When the custody officer has completed these actions, the person should be given a notice setting out these rights and asked to sign the custody record.

Searching an arrested person

Section 32 PACE 1984 gives a police constable, power to search a person who has been arrested where certain criteria are met. It applies only to an arrest that has been made in a place other than a police station. If a person is arrested at a police station, then that person will only be searched under the directions of the custody officer.

Escort suspects and present to custody (OP8) v1.00

These notes cover the procedure in relation to escorting a suspect to the most appropriate location and how to take responsibility for any evidence or personal property that is being transported with the person. They cover explanation of legality and grounds for detention to the custody officer, informing them of any special conditions or risks that may apply to the suspect.

Escort detained persons

Before transporting a detained person, police officers, PCSOs and Special Constables will need to **search** them in accordance with current policy and legislation. All detained persons should be searched for dangerous items or items that could be used to assist escape. Section 32 of PACE 1984 provides powers for officers to carry out searches when a person has been arrested. Police officers may also search in order to prevent the loss, damage, destruction or contamination of evidence.

You are responsible for the safe custody of a detained suspect until they have been dealt with by the custody officer at the police station.

Transport of detainees will normally be by police van; if not available, other suitable police transport may be used.

If the detainee is not violent and the appropriate location is no great distance away, they may be taken there on foot, except when they are handcuffed.

Public transport must not be used. Any vehicle used should be searched prior to and after conveying the suspect.

Issues of **cross-contamination** should be considered when transporting detainees. If you are transporting more than one detainee, any contact between them may result in trace material being transferred from one to the other and possible wrongly linking one with a crime scene.

If the grounds for detaining the arrested person cease to exist before they reach a police station and there are no further grounds for detaining them, you must **release** the person.

In such circumstances, the safety and welfare of the individual should be considered and your force guidelines adhered to. You should record details of the event immediately.

When transporting a detained person you must record any relevant **unsolicited comments** made by them fully and accurately and fully document all decisions, actions, options and rationale in accordance with current policy and legislation. Further information can be found in your student notes LPG1.4.03 - Documentation and LPG1.7.20 - Cautions, Significant Statements and Unsolicited Comments.

Present Detained Person to Custody

A person is in detention when he or she:

- has been arrested for an offence and brought to a police station, or
- has voluntarily attended a police station and is subsequently arrested, and is detained there or elsewhere in the charge of a constable

On arrival at a police station PACE requires that a detained person be taken before a custody officer as soon as practicable. The custody officer must record the offence(s) and reason and necessity for arrest on the custody record.

Arresting officers are required to inform the person arrested that they have been arrested, even if this fact is obvious. They must inform the person and the custody officer on arrival at a police station of the relevant circumstances of the arrest in relation to:

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

In addition you must provide information regarding any special conditions and associated risks that apply to the detained person. Such conditions or risks could include:

- health or medical issues
- a likelihood of deliberate self-harm
- the necessity of force in the arrest
- the need for segregation
- requirements associated with the health, safety and welfare of all involved
- information in relation to evidence or other property, for example drug paraphernalia
- requirements for the security of all involved, for example if the person has been arrested on terrorism charges

Statutory Rights

The custody officer must inform a person under arrest at a police station of the right to:

- have someone informed of their arrest
- consult privately with a solicitor free of charge (in person or by telephone)
- consult the Codes of Practice

The person must be informed that these rights need not be exercised immediately. They are continuing rights which may be exercised at any stage during the period in custody. When the custody officer has completed these actions, the person should be given a notice setting out these rights and asked to sign the custody record.

Searching

The custody officer may search the detainee or authorise their search to the extent thought necessary. You may be asked to perform a search by the custody officer.

If a custody officer deems it necessary, they may withhold certain articles from the detainee.

A custody officer may authorise a strip search to remove an article which a detainee would not be allowed to keep if it is the officer reasonably considers the detainee may have concealed such an article.

Intimate body orifices other than the mouth may be searched only if authorised by an officer of at least the rank of Inspector or above who has reasonable grounds for believing that the person may have concealed on themselves:

- anything which they could and might use to cause physical injury to themselves or others at the station or,
- a class A drug which they intended to supply to another or to export and,
- an intimate search is the only means of removing those items and,
- if the search is under the second point above (a drug offence search), the detainee's appropriate consent has been given in writing

There are strict procedures that must be followed regarding these searches.

Disposal Options

When there is sufficient evidence for a prosecution to succeed, the custody officer will decide whether the person should be charged or released with or without bail.

Bail means:

- bailed to appear before a court at a given time and date, or
- bailed to return to a police station at a given time and date, or
- bailed without charge

A custody officer may release unconditionally a person who has been informed they may be prosecuted, i.e. reported for summons.

When dealing with detained persons, all your actions towards individuals must be conducted in an ethical manner, recognising and respecting equality, diversity and human rights. You should take into account the health and safety and welfare of yourself, the detained person and others at all times.

When dealing with a detainee you will be under the supervision of the custody officer. If you are ever in doubt of your course of action, seek advice from the custody officer.

Prepare and present evidence (OP9) v1.00

These notes will assist you in developing a professional approach in preparing to present evidence and presenting evidence clearly, accurately and effectively in compliance with the rules of evidence and court/hearing procedures and all relevant aspects of equality, diversity and human rights.

Preparing Case Files

When a person has been arrested and charged or reported for summons with an offence(s) all the relevant evidence and information in respect of the case must be collated into a prosecution file. The forms that are used to collate this evidence and information are a set of nationally agreed forms that are contained in the **Manual of Guidance (MoG)**. When the file is complete it is submitted to the Crown Prosecution Service (CPS) who is responsible for prosecuting the offence in court.

The Streamlined Process of preparing prosecution case files

The Streamlined Process forms part of the Government's programme to improve efficiency and effectiveness and is a new system of preparing some types of case files prior to their submission at a magistrate's court. Its aim is to reduce (streamline) the contents of some case files, providing a more proportionate prosecution file, to process anticipated guilty plea cases which are suitable for sentencing in the magistrates' court.

The Streamlined Process will have a significant impact on how you produce some case files, for example by its provisions for streamlining statements and

therefore you should complete the e-learning package entitled Streamlined Process, which is available by accessing the Managed Learning Environment (MLE) on the National Centre for Applied Learning Technology (NCALT) website at www.ncalt.com.

Preparing for presenting evidence

There are many reasons why you may be required to attend court after the completion of an investigation. You may have been involved in responding to the initial incident, you may have been a witness to an offence or you may have recovered evidential exhibits which the court needs producing to prove the offence. Exhibits could include: drugs found at a scene, stolen property which you have recovered or a weapon you have seized.

Your attendance at court to give evidence of your involvement in an investigation will generally come from the CPS via one of your internal force departments, such as a witness liaison or the Criminal Justice Unit. This is commonly referred to as a **court warning**. It is essential that you respond promptly to these warnings as failure to do so would indicate a lack of professional responsibility on your part and could affect the eventual outcome of the trial.

Maintain the continuity of exhibits

To allow exhibits to be introduced to the court, they need to be dealt with in a standard way. This means that they should be labelled so that each potential exhibit can be identified by its unique number.

Reviewing evidence in advance of the hearing and checking that appropriate notes are available

Research shows that the key to a good presentation of evidence is preparation. You should try to remember, from the first report or observation of an offence and throughout the course of the investigation, that everything you do or say, or that you record having seen and heard, and those things you fail to do or to record, may be subject to the critical scrutiny of the court.

Care taken in ensuring the accuracy and clarity of notes made in your pocket notebook, sketch plans or other records will help you when you are called to present your evidence and to answer questions on it. Exhibits that are poorly organised or mislaid can cast doubt on the efficiency - or even the honesty - of an officer. Equally, attempts to embellish the facts when you do not have the required information can be damaging to you personally and the service you represent, or could have serious implications for the defendant.

Confirm attendance of victims and witnesses at court

Confirmation that all relevant victims and witnesses are attending is now a function of the Witness Care Unit, which is run by the police and CPS in partnership. Your trainers will be able to advise you regarding local arrangements concerning this issue.

Assessments will be made of victims and witnesses in order to determine whether the witness can be categorised as being:

- vulnerable
- intimidated
- significant
- other

NB More information is provided on this subject in **IND06, OP6a and**

LPG1_3_07.

Victims and witnesses provide the information, intelligence and evidence to investigators which enables offenders to be brought to justice. In order for the system to operate effectively, these people must have confidence in the criminal justice process. In turn the system must recognise the needs and concerns of victims and witnesses and provide adequate information, support, protection and reassurance to generate faith and trust in the legal process.

In addition to the usual liaison processes that take place directly between the police service and the CPS, there may be occasions when you have to liaise with representatives of other prosecuting authorities.

It is especially important that you deal with individuals in an ethical manner, recognising their needs with respect to equality, diversity and human rights.

Attending courts or other hearings, attending on time, with all necessary exhibits and documents

Before you go to court

When you are called to give evidence in court, be sure to take the following steps in advance:

- ensure that you give yourself plenty of time to get to court. You will be expected not only to prepare yourself, but to liaise with witnesses, the CPS, other colleagues and court officers
- make sure that you are familiar with the case
- check that all the necessary administrative steps have been taken, that the case papers are complete and that any exhibits are available and correctly ordered and labelled

In court

Officers who are well turned out are more likely to make a good impression on the court and to be respected and believed than those who have taken little or no trouble with their appearance.

If there are any problems or difficulties associated with the victims or witnesses on the day of the case you should report these promptly to the appropriate person or organisation. With regard to defendants, their support and guidance will be facilitated by either their solicitor and/or prosecution barrister before the hearing. Do not speak to the accused or their solicitor about the case unless you have permission of the prosecutor to do so.

Reporting any breaches of court procedure or protocol

Breaches of court procedures are very rare. Should they take place as the evidence is being heard then they will be dealt with by court officers/officials. Should you witness what you consider to be a breach of protocol, or a court

official brings something to your attention, then you should report this fact to the CPS solicitor (barrister) immediately.

Giving evidence

The prosecution present evidence to attempt to establish that:

- the offence with which the defendant is accused was committed, and
- the defendant was the person who committed the offence

The case is conducted as a contest between the prosecution and the defence (the 'adversaries') who must comply with the rules of evidence. The prosecution has a duty to the court to ensure that all relevant evidence is disclosed.

Presenting evidence

Evidence may be presented in one of three ways:

- oral
- real
- documentary

Planning

Prior to giving your evidence, think ahead about the evidence you will be giving and the questions you may be asked. Cross-examination can be very demanding and it helps to anticipate the kinds of questions the defence might ask to try to identify weaknesses in your account or to cast doubt on the veracity of your evidence or on the efficiency, fairness or thoroughness of the investigation.

There are basically four rules for delivering your evidence in an appropriate manner:

- truthfully
- objectively
- clearly
- concisely

Cross examination

Once you have given your evidence, the defence may wish to ask you some questions. This is known as cross-examination. The defence may be testing your evidence to establish any areas of weakness that may be of benefit to the defendant. Some of your evidence may also be favourable to the defendant and the defence may wish to explore or expand on this aspect.

You should listen carefully to the questions, ask for clarification if necessary and give concise answers. Answer one question at a time and direct your answers to the judge or the magistrates.

The Police Service witness

As an officer you will be required to give evidence at both Magistrates and Crown Courts. Your position is no different than any other witness, although the fact that you will give evidence as part of your professional role and do so more frequently than other witnesses, leads the courts to expect a more competent performance.

The ten golden rules

There are ten golden rules well worth remembering when in the witness box:

1. Listen to the question
2. Make sure you understand the question - if not, ask for it to be repeated
3. Think carefully about the answer
4. Answer the question (and only the question)
5. Keep your answer short and to the point
6. Don't ever be evasive
7. Be reasonable
8. Be courteous at all times
9. Admit your mistakes
10. Tell it like it is

and above all – tell the truth

LPG 1 Quick Notes

Assaults (LPG1_1_01) v1.02

An **Assault** is any act where a person intentionally or recklessly causes another person to apprehend immediate and unlawful personal violence.

Battery is where a person intentionally or recklessly applies unlawful force to another person. (A future threat is not an assault).

Common assault and battery - Section 39 of the Criminal Justice Act 1988

The Act states that:

'Common assault and battery shall be summary offences'.

Consent- the offence occurs when there is no consent for the Assault or Battery.

Consent can be:

- 1) Implied - not specifically given but allowed, e.g. gently tapping a person on the shoulder to get their attention;
- 2) Invalid - specifically given but not valid, e.g. a child being too young to understand what they are consenting to or would result in serious injury;
- 3) Not required - when the use of force is lawful, e.g. arresting a person or in self-defence. A parent can chastise a child providing it is moderate and reasonable and no injury is inflicted on the child.

Some examples of Section 39 injuries are:

- grazes, scratches, abrasions and superficial cuts

Note: You cannot attempt to commit this offence

Power of arrest without warrant - constables only

Assault Occasioning Actual Bodily Harm - Section 47 of the Offences Against the Person Act 1861

Actual bodily harm means any harm which interferes with the health or comfort of the victim.

It is an offence: **'to assault any person thereby occasioning them actual bodily harm'**.

Note: Where the injuries exceed those that can suitably be reflected by a common assault, a charge of assault occasioning actual bodily harm should normally be preferred.

Some examples of Section 47 injuries are:

- loss or breaking of tooth or teeth, extensive or multiple bruising, displaced broken nose and minor fractures and psychiatric injuries

Power of arrest without warrant – constables/other persons

Racially or Religiously Aggravated Assaults – Section 29 Crime and Disorder Act 1998

A person is guilty of an offence under Section 29 of the Crime and Disorder Act 1998 if they commit an offence of common assault or assault occasioning actual bodily harm which is racially or religiously aggravated

Power of arrest without warrant – constables/other persons

Assault Police – Section 89(1) Police Act 1996

It is an offence for any person to assault a constable whilst in the execution of his duty or a person assisting him.

- the duty must be a lawful one

Note: you cannot attempt to commit this offence

If an assault on a constable results in injury which amounts to those described in the section on common assault, then a prosecution under Section 89(1) of the Police Act 1996 will be appropriate, provided that the officer is acting in the execution of his or her duty. Where the injuries are more serious, for example the injuries are such that an offence contrary to Section 47 would be charged in relation to an assault on a member of the public then the same charge will be applicable for an assault on a constable.

Power of arrest without warrant – constables only

Obstruct Police – Section 89(2) Police Act 1996

It is an offence for any person to resist or wilfully obstruct:

- a police officer acting in the execution of his duty, or
- any person assisting him

Resistance suggests some form of physical opposition; obstruction does not and may take many forms. For instance, providing misleading information. Any obstruction must be wilful.

Note: You cannot attempt to commit this offence

Power of arrest without warrant – constables only

Obstruction or hindering certain emergency workers responding to emergency circumstances – Section 1 Emergency Workers (Obstruction) Act 2006

A person who without reasonable excuse, obstructs or hinders another while that other person is, in a capacity mentioned in subsection (2) below, responding to emergency circumstances, commits an offence.

Subsection (2) defines 'emergency workers' as:

- fire-fighters, ambulance workers and those transporting blood, organs, personnel or equipment on behalf of the NHS, coastguards and lifeboat crews

Whilst the Act is designed to protect a specific group of emergency workers who respond to 'blue-light' situations, it does not cover police or prison officers.

Power of arrest without warrant – constables only

Obstruct or hindering persons assisting emergency workers - Section 2 Emergency Workers (Obstruction) Act 2006

A person who without reasonable excuse, obstructs or hinders another in the circumstances described below commits an offence.

The circumstances covered are where the person being obstructed or hindered is assisting an emergency worker responding to emergency circumstances. This would include:

- voluntary and other organisations who are at an emergency and who might otherwise not be covered
- individuals such as first-aiders, who may be helping at the scene of an accident
- those who are directing traffic in order to allow the emergency workers to deal with incident

Power of arrest without warrant – constables only

Reasonable excuse

In both Sections 1 and 2 above it is important to note that the offence will not apply where the obstruction was inadvertent or unavoidable.

The term 'reasonable excuse' will offer a defence to, for example, a person who is in a traffic-jam and causes an obstruction because they cannot get out of the way.

Outraging Public Decency (LPG1_1_02) v1.00

It is an offence at common law to commit an act of a **lewd, obscene or disgusting** nature which is capable of outraging public decency.

Power of arrest without warrant – Constable/other persons

Act - An 'act' does not have to be a live activity, nor does it have to be sexual in nature. It can include exhibiting material by way of obscene publications, or exhibiting a sign or object of a disgusting nature in a public place.

Lewd means lascivious or indecent;

Obscene means offensively repugnant;

Disgusting means repugnant or loathsome.

How can the offence be committed? This offence is committed by the deliberate commission of an act that is in itself lewd, obscene or disgusting. If

the act is not lewd, obscene or disgusting, then the motive or intention of the offender cannot make it so (R v Rowley [1991] 1 WLR1020).

By whom - The offence can be committed by both men and women, and includes such acts as the exposing of the genitals or engaging in real or simulated sexual acts. The offence may also be committed in other ways.

Where - The act must be committed where it might be seen by the public generally and the act must be capable of being seen by two or more persons, even if they had not actually seen the act. However, there is no requirement to prove that those persons were actually disgusted or outraged by it.

Note: Police officers, whose duty it is to watch out for acts of public indecency, are members of the public for the purpose of this offence.

Public order offences (LPG1_1_03) v1.02

All public order offences listed here are contrary to the Public Order Act 1986

Section 5 - Harassment, alarm or distress

A person is guilty of an offence if they:

- use threatening, abusive or insulting words or behaviour, or disorderly behaviour, or
- display any writing, sign or other visible representation which is threatening, abusive or insulting,

within the hearing or sight of a person likely to be caused harassment, alarm or distress by such action. There is no requirement that the conduct should be directed towards any person.

Power of arrest without warrant – constables only (including when racially or religiously aggravated offence under Section 31 Crime and Disorder Act 1998)

- can be committed in public or private but no offence within a dwelling or dwelling to dwelling

Section 4A – Intentionally causing harassment, alarm or distress

A person is guilty of an offence if, intending to cause a person harassment, alarm or distress, they either:

- use threatening, abusive or insulting words or behaviour or disorderly behaviour, or
- display any writing, sign or other visible representation which is threatening, abusive or insulting,

thereby causing that or another person harassment, alarm or distress.

Power of arrest without warrant – constables only (constables/other persons if racially or religiously aggravated offence under Section 31 Crime and Disorder Act 1988)

- can be committed in public or private but no offence within a dwelling or dwelling to dwelling
- it is necessary to obtain a witness statement from a victim for this offence

Section 4 – Fear or Provocation of violence

A person is guilty of an offence if he uses towards another person threatening, abusive or insulting words or behaviour, or distributes or displays to another person any writing, sign or other visible representation which is threatening, abusive or insulting:

- with intent to cause that person to believe that immediate unlawful violence will be used against him/her or another by any person, or
- to provoke the immediate use of unlawful violence by that person or another, or
- whereby that person is likely to believe that such violence will be used or
- it is likely that such violence will be provoked

Power of arrest without warrant – constables only (constables/other persons if racially or religiously aggravated offence under Section 31 Crime and Disorder Act 1988)

- Violence includes violence towards property as well as people
- can be committed in public or private but no offence within a dwelling or dwelling to dwelling

- Dwelling is defined as any structure or part of a structure occupied as a person's home or as other living accommodation.

Section 3 – Affray

A person is guilty of affray if he:

- uses or threatens unlawful violence towards another
- and his conduct is such as it would cause a person of reasonable firmness
- present at the scene
- to fear for his personal safety

Power of arrest without warrant – constables/other persons

- can be committed by an individual or by two or more persons
- violence is confined to violent conduct towards persons
- threats cannot be words alone and must be towards a person There must be some conduct on the part of the accused which must be directed towards a person

Theft Act 1968 (LPG1_1_04) v1.02

Theft - Section 1 of the Theft Act 1968

'A person is guilty of theft if he dishonestly appropriates property belonging to another, with the intention of permanently depriving the other of it.'

Power to arrest without warrant – constable/other persons

Dishonestly - it will not be regarded as dishonest if:

- the person appropriating property believes that he has in law the right to deprive the other of it on behalf of himself or a third person
- he appropriates the property in the belief that he would have the other's consent if the other knew of the appropriate and the circumstances of it
- he appropriates the property in the belief that the person to whom the property belongs cannot be discovered by taking reasonable steps

It is for the suspect to prove that their belief was a genuine belief. For a test of dishonesty see R v Ghosh [1982] QB 1053.

Appropriates - Any assumption by a person of the rights of the owner and this includes where they came by the property, innocently or not, without stealing it, if they later assume a right to the property by keeping it or dealing with it as if they owned it.

Property - This includes money and all other property, real or personal, including things in action and other intangible property, wild creatures tamed or normally kept in captivity, but does not include wild creatures, mushrooms growing wild on any land, or flowers, fruit, foliage of a plant growing wild on any land unless picked for reward, sale or other commercial purpose.

Belonging to another - The property appropriated must 'belong' to someone other than the person appropriating it, or it cannot be stolen.

Intention to permanently deprive - A person permanently deprives another of property when the intention is to treat the thing as their own, to dispose of regardless of the other's rights.

Burglary - Section 9(1)(a) and 9(1)(b) of the Theft Act 1968

A person is guilty of burglary if:

he enters a building or part of a building as a trespasser with intent to:

- steal anything in the building or part of the building, or
- inflict grievous bodily harm on any person therein, or
- do unlawful damage to the building or anything therein

(Contrary to Section **9(1)(a)** of the Theft Act 1968)

or

having entered any building or part of a building as a trespasser, he

- steals or attempts to steal anything therein, or
- inflicts or attempts to inflict grievous bodily harm on any person therein

(Contrary to Section **9(1)(b)** of the Theft Act 1968)

Power to arrest without warrant – constable/other persons

Enters - The entry has to be in order to commit one of the offences listed for an offence contrary to Section 9(1)(a) burglary and may be by bodily entry, part of the body or instrument.

Building - A building must have a degree of permanence. It includes inhabited vehicles and vessels in use as dwellings, such as a caravan, including when the occupiers are temporarily away. When a vehicle or vessel is no longer in use as a dwelling, burglary cannot be committed. It does not include temporary structures such as tents and marquees

Part of a building - This is included to cover a situation where, in the same building, a person may have a right to be in one place, but not in another, such as a hotel store room or behind a shop counter.

Trespasser - This means being there without the consent of a person who can give such consent, or without other lawful authority. If a person is duped into giving consent, such as a bogus meter reader, then the person is still trespassing.

Aggravated Burglary - Section 10(1), Theft Act 1968

A person is guilty of aggravated burglary if he commits any burglary and at the time has with him any firearm or imitation firearm, any weapon of offence, or any explosive.

Power of arrest without warrant – Constables / other persons

Aggravated burglary has exactly the same elements as burglary plus the additional evidence that, at the time of committing the offence, the accused person has with him one or more of the four named articles listed below:

- **Weapon of offence**
- Imitation firearm
- Firearm
- Explosive

Weapon of offence - A weapon of offence is any article made or adapted for use for causing injury to, or incapacitating a person, or intended by the person having it with him for such use.

Imitation firearm - Anything having the appearance of being a firearm, whether capable of being discharged or not.

Firearm - Firearm includes an airgun or air pistol. The legislation does not define the term 'firearm' itself.

Explosive - Explosive means any article manufactured for the purpose of producing a practical effect by explosion, or intended by the person having it with him for that purpose. The word 'explosive', therefore, has a broad meaning.

Has with him - 'Has with him' means knowingly having physical possession at the time of committing the burglary.

Robbery - Section 8 of the Theft Act 1968

A person is guilty of robbery when he or she:

- Steals **and**,
- immediately before doing so, **or**
- at the time of doing so, **and**
- in order to do so,
- uses force on any person, **or**
- puts or seeks to put, any person in fear of being then and there subjected to force

Power to arrest without warrant – constable/other persons

Steals - There must be a theft, no theft, no robbery. For example, taking a conveyance is not theft

Immediately before - The force used or threatened must be in order to steal and must occur 'immediately before' or 'at the time' of the stealing.

In order to steal - The force 'used' or the 'putting or seeking to put in fear' must be in order to steal. If the force is used for another purpose, such as escaping and is not used to carry out the theft, then there cannot be a conviction for robbery.

Uses force - Force has to be used on **a person** to satisfy this part of the definition. An accidental use of force will not be a robbery. Force can improve pulling property from a persons grasp.

Put or seeks to put in fear - When actual force is not used the 'putting' or 'seeking to put' a person in fear of being then and there subjected to force is sufficient to constitute a robbery, even though force has never been used.

Fearing for someone else is not sufficient, such as threats to harm a baby in a pushchair or another person not at the scene. However, such threats can be an offence of Blackmail.

Of being then and there subjected to force - The threat of force cannot be in the future or at some place other than at the scene.

Taking a conveyance without consent - Section 12(1) of the Theft Act 1968

A person shall be guilty of an offence if:

- without the consent of the owner or other lawful authority
- he takes any conveyance
- for his own or another's use, or
- knowing that any conveyance has been taken without such authority,
- drives it, or
- allows himself to be carried in or on it

Power to arrest without warrant – constable/other persons

Conveyance - This means anything that is constructed or adapted to carry persons by land, water or air and includes a vehicle drawn by an animal. It will not include an animal, a pedal cycle or pedestrian controlled vehicles.

Takes - It is 'taken' if it is moved any distance from its original position.

For his/her own or another's use - Normally, a person will take a conveyance for the purpose of immediately 'stealing a ride', but provided the other parts of the definition are proved, the 'use' may cover an intention to use it in the future.

Pushing the conveyance is not enough; the person must travel in or on it.

Consent of the owner - Where consent is obtained, this offence is still committed if the taker goes beyond the scope of the permission given. It is a **defence** if the taker genuinely believes that the owner would have given consent, had they known the circumstances.

Lawful authority - Once again, there is no offence if the person believes that they have such lawful authority, even if their belief is unreasonable.

Drives it or allows self to be carried in or on it – the person not present at the original taking commits the offence if they later drive the conveyance, or has a ride in it, or on it. It must be proved that:

- the person knew that the conveyance had been taken, as above. This proof may come from the person's own admission, or from the circumstances, and
- the person drove the conveyance or allowed themselves to be carried in or on it

Whether 'driving' or 'allowing themselves to be carried', it must be proved that the conveyance was in motion.

Aggravated Vehicle Taking - Section 12A Theft Act 1968

Any person who commits that offence (i.e. taking a conveyance whether as a driver or passenger) is guilty of aggravated taking of a vehicle offence if it is proved that the vehicle was involved in any of the four aggravating factors.

Power of arrest without warrant – constables / other persons

The four options are:

- that the vehicle was driven dangerously on a road or other public place, or
- that owing to the driving of the vehicle an accident * occurred by which injury was caused to any person (this includes the driver, passenger(s) and pedestrian(s)), or
- that owing to the driving of the vehicle an accident* occurred by which damage was caused to any property other than the vehicle, or
- that damage was caused to the vehicle.

The word 'accident' has been retained in these notes to correctly reflect legislation. A more acceptable term when referring to road traffic accidents is 'road traffic collisions'.

It is not necessary to establish that a particular defendant was directly responsible for the aggravating circumstances. It is sufficient to prove that the basic offence was committed and the aggravated circumstance had occurred.

Section 12(A)(3) provides a defence for defendants who can prove on the balance of probabilities that:

- the aggravating circumstances occurred before the basic offence was committed, or
- the defendant was neither in, nor on, or in the immediate vicinity of the vehicle when the aggravating circumstances occurred.

Taking a pedal cycle without consent - Section 12(5) of the Theft Act 1968

A person shall be guilty of an offence if he :

- takes a pedal cycle, for his own or another's use
- without the consent of the owner or other lawful authority or,
- knowing that it has been so taken, to ride on it

Power to arrest without warrant – constable only

The areas of 'takes', 'owners consent' and 'lawful authority' discussed in these notes in relation to taking a conveyance without consent applies equally to pedal cycles.

Pedal Cycle - This means bicycles but also includes similar vehicles with more than two wheels, e.g. tricycles.

Theft Act 1978 (LPG1_1_05) v1.00

Making off Without Payment - Section 3 Theft Act 1978

Definition

A person who, knowing that payment on the spot for any goods supplied or services done is required or expected from him, dishonestly makes off without having paid as required or expected and with intent to avoid payment of the amount due, shall be guilty of an offence.

Power of arrest without warrant - constables/other persons

This offence is often committed by people who fill their car with petrol and leave without paying or take a taxi and run off without paying.

Goods or service supplied - these must be legally enforceable and you must prove an intention to avoid payment; simply delaying payment due or making someone wait for payment is not enough.

Dishonesty - It will not be regarded as dishonest if the person appropriating property believes that he has in law the right to deprive the other of it on behalf of himself or a third person. It is for the suspect to prove that their belief was a genuine belief.

If there is some doubt as to whether the person has 'made off' from the spot then the person can be charged with attempting the offence.

Criminal Attempts Act 1981 (LPG1_1_06) v1.00

Section 1(1) of the Criminal Attempts Act 1981 states:

- if, with intent to commit an offence triable on indictment*
- a person does an act which is more than merely preparatory to the commission of the offence
- they are guilty of attempting to commit the offence

*Other than the offence of aiding and abetting counselling or procuring, encouraging/assisting suicide and assisting offenders.

Note: If attempted offence is triable summarily it cannot be an offence under s.1, for example, depositing litter, driving whilst disqualified, using a vehicle without a test certificate, taking a vehicle without the owner's consent, or obstructing the highway.

More than merely preparatory

This should be a series of steps, that if not interrupted would lead to the commission of the offence and the offender has gone so far that an independent person would come to the conclusion that their actions just fall short of the offence.

Statutory attempts

Some Acts create a specific offence of 'attempt' in the legislation, for example, driving or attempting to drive a motor vehicle with alcohol concentration over the prescribed limit under Section 5 of the Road Traffic Act 1988.

The impossibility rule

A person may be guilty of attempting to commit an offence even though the facts are such that the commission of the offence is impossible.

Note: The penalty for an attempt offence is the same as for a full offence - either way offences have the same maximum penalty as the substantive offence when tried summarily

Perjury (LPG1_1_07) v1.00

This offence addresses the issue of wilfully lying during court proceedings. It is retained for use in serious cases or where there is a breach of public trust.

An officer's evidence will be open to the closest scrutiny.

Perjury Act 1911 – Section 1

If Any person lawfully sworn as a witness or as an interpreter in a judicial proceeding wilfully makes a statement material in that proceeding, which he knows to be false, or does not believe to be true, he shall be guilty of perjury.

Triable on indictment only

Power of arrest without warrant – Constables/other persons

Court/judicial proceedings include:

- Crown Court
- Juvenile Court
- Coroner's Court
- Magistrate's Court
- Civil Court
- Court Martial

Wilfully can be defined as - knowing something to be wrong and continuing with a course of action.

It is for the court to decide whether the statement made was relevant to the proceedings.

Officers operate in a privileged position of trust. An offence of perjury by any serving officer will be treated severely by any judge.

Racially and Religiously Aggravated Offences (LPG1_1_08)

v1.00

Section 28 of the Crime and Disorder Act 1998 defines an offence as being **racially or religiously aggravated** as:

- a) "at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim's membership (or presumed membership) of a racial or religious group; or
- b) the offence is motivated (wholly or partly) by hostility towards members of a racial or religious group based on their membership of that group."

In this section 'racial group' is defined as a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins.

In this section 'religious group' is defined as a group of persons defined by reference to religious belief or lack of religious belief.

Racially or Religiously Aggravated Common Assault and Battery

Section 29 (1)(c) of the Crime and Disorder Act 1998 states that a person is guilty of an aggravated offence if they commit an offence under Section 39 of the Criminal Justice Act 1988, which is racially or religiously aggravated.

Triable either way - Power of Arrest without warrant Constables/other persons

Racially or Religiously Aggravated Assault Occasioning Actual Bodily Harm

Section 29(1)(b) of the Crime and Disorder Act 1998 states that a person is guilty of an aggravated offence if they commit an offence under Section 47 of the Offences Against the Persons Act 1861, which is racially or religiously aggravated.

Triable either way - Power of Arrest without warrant Constables/other persons

Racially or Religiously Aggravated Wounding or Inflicting Grievous Bodily Harm

Section 29 (1)(a) of the Crime and Disorder Act 1998 states that a person is guilty of an aggravated offence if they commit an offence under Section 20 of the Offences Against the Persons Act 1861, which is racially or religiously aggravated.

Triable either way - Power of Arrest without warrant Constables/other persons

Racially or Religiously Aggravated Criminal Damage

Section 30 of the Crime and Disorder Act 1998 states that a person is guilty of an aggravated offence if they commit an offence under Section 1(1) of the Criminal Damage Act 1971, which is racially or religiously aggravated.

Triable either way - power of arrest without warrant constables/other persons

Racially or Religiously Aggravated Public Order Offences

Section 31 of the Crime and Disorder Act 1998 states that a person is guilty of an aggravated offence if they commit an offence under Section 4, 4A or 5 of the Public Order Act 1986 which is racially or religiously aggravated.

Section 4 and 4a triable either way - power of arrest without warrant constables/other persons

Section 5 triable summarily – power of arrest constables only

Racially or Religiously Aggravated Harassment

Section 32 of the Crime and Disorder Act 1998 states that a person is guilty of an aggravated offence if they commit an offence under section 2 or 4 of the Protection from Harassment Act 1997 which is racially or religiously aggravated.

Triable either way - power of arrest without warrant constables/other persons

Criminal Damage (LPG1_1_09) v1.02

Criminal Damage - Section 1(1) Criminal Damage Act 1971

A person who without lawful excuse destroys or damages any property belonging to another:

- intending to destroy or damage any such property, or
- being reckless as to whether any such property would be destroyed or damaged

shall be guilty of an offence.

Power of arrest without warrant – constables/and other persons (same if racially or religiously aggravated)

Property

Exemptions to property that can be damaged are:

- mushrooms, flowers, or the fruit or foliage of any trees, shrubs or plants which are growing wild

- wild creatures which have not been tamed, not normally kept in captivity and which have not been reduced into possession

Lawful Excuse

This includes (1) The person believes they have the authority to do the damage either by law or by permission of someone who can give it; (2) The person believes they would have been given permission if the person who could give it had known of the circumstances; (3) The person believes their action is (a) immediately necessary to protect property belonging to themselves or anyone else, and (b) reasonable in the circumstances.

Reckless

A person cannot be deemed to have acted recklessly by doing something that involved damage to property if they genuinely did not perceive the risk.

In cases of accidental or careless damage that do not amount to recklessness, civil remedies should be considered.

Arson - Section 1(3) Criminal Damage Act 1971

Arson is criminal damage by fire.

Power of arrest without warrant – constables /and other persons

Damage endangering another's life – Section 1(2) Criminal Damage Act 1971

This offence is committed when:

- a person who without lawful excuse destroys or damages any property whether belonging to himself or another intending to destroy/damage any property or being reckless as to whether any property would be destroyed or damaged, and
- intending by the destruction/damage to endanger the life of another or being reckless as to whether the life of another would thereby be endangered.

Power of arrest without warrant – constables/and other persons

For example, dropping objects from a motorway bridge on to a passing vehicle.

Threats to destroy or damage property – Section 2 Criminal Damage Act 1971

This offence is committed when a person who, without lawful excuse makes to another a threat intending that the other would fear it would be carried out:

- to destroy/ or damage any property belonging to that other or a third person, or
- to destroy/ or damage his own property in a way which he knows is likely to endanger the life of that other or a third person.

Power of arrest without warrant – constables/and other persons

For example, during an industrial dispute, an employer makes a telephone call to a striker threatening to cut their brake pipes if they do not return to work. The offender's own property may be the subject of the offence, but only if the threatened damage or destruction would be likely to endanger another's life.

Possessing anything with intent to destroy or damage property or endanger life - Section 3 Criminal Damage Act 1971

An offence is committed by a person who has anything in their custody or under their control intending, without lawful excuse, to use it or cause or permit another to use it to:

- destroy/ or damage any property belonging to some other person, or
- to destroy/ or damage their own or the user's property in a way which they know is likely to endanger the life of some other person.

Power of arrest without warrant – constables/and other persons

This is a preventive measure, designed to prevent people from using anything to cause damage. Virtually anything could be used to cause damage.

Drugs - Possession (LPG1_1_10) v1.02

Classification of Drugs

Controlled drugs are classified as 'A', 'B' and 'C' group, according to their toxicity.

The common names used for drugs change constantly; a few of the current ones are given below.

Class A

Narcotics (including opium, morphine, heroin and cocaine)

Hallucinogens (including LSD, ecstasy and fungus)

Class B

Amphetamines (including speed or pep pill)

Barbiturates (including ethyl morphine, methaqualone and codeine)

Cannabis (known as dope, weed, draw, smoke, spliff, bush, blow, a joint, ganja, hash, marijuana, pot etc)

Mephadrone (including derivatives of Cathinone) have led to the deaths of several young people prompting the Home Office to include them in class 'B'.

They have a similar effect to amphetamines causing anxiety, paranoid states and over-stimulation of the cardiovascular and nervous systems that can lead to heart and circulatory problems along with agitated/paranoid states with the further risk of hallucinations.

Class C

Barbiturates not covered in Class B (includes temazepam and diazepam, benzodiazepines)

Gammahydroxy-butyrate (GHB)

Anabolic and Androgenic Steroids

Police powers

S.23(2) Misuse of Drugs Act 1971, If a constable has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Act or of any Regulations made under it, the constable may:

- search that person, and detain him for the purpose of searching him

- search any vehicle or vessel in which the constable suspects that the drug may be found and, for that purpose, require the person in control of the vehicle or vessel to stop it
- seize and detain anything found in the course of the search which appears to the constable to be evidence of an offence under this Act

Unlawful possession

Possession of Controlled Drug – Section 5(2) Misuse of Drugs Act 1971

Triable either way

Power of arrest without warrant – constables / other persons

It is an offence for a person to have a controlled drug in his possession without authority.

You must prove that:

- the accused had the substance in his possession
- the substance was a controlled drug
- he/she had no authority such as a doctor's prescription to possess it
- he/she knew of the existence of the substance in his/her possession

Defences: (1) That the person neither believed nor suspected nor had reason to suspect that the substance was any controlled drug. (2) That the person believed the substance in question was a controlled drug, which he was in fact legally entitled to possess. (e.g. person given the wrong prescription by their pharmacist). (3) That the possession was for the purpose of preventing another committing or continuing to commit the offence, provided, as soon as possible, the person took reasonable steps to destroy it or hand it to a person lawfully authorised to receive it. (e.g. a parent finds their child with a controlled drug and takes it to the police station). (4) The possession was for the purpose of handing it to a person authorised to receive it, provided, as soon as possible, the person takes reasonable steps to do so (e.g. finding drugs in the street and taking them directly to a police station).

Lawful possession

Certain people may possess any controlled drug when they are acting in the course of their duty. They include:

- police officers
- customs and excise officers
- carriers
- forensic science laboratory personnel
- post office employees

In addition to the above, a person may lawfully possess controlled drugs:

- which have been prescribed to them
- when engaged in conveying the drug to a person who may lawfully have that drug in his possession (e.g. someone lawfully conveying the drugs to one of the above, for example; someone finds some drugs on the street and takes them to a police station)

Simple Possession of Cannabis

The ACPO 'Guidance on Cannabis Possession for Personal Use 2009' outlines three possible courses of action to deal with possession of a small amount: issue a Cannabis Warning or issue a Penalty Notice for Disorder or Arrest.

The guidance provides a number of considerations to be taken account of in deciding on the appropriate course of action.

See LPG1_1_10 student notes for more detail of circumstances when a PND may or may not be issued. Alternatively see full details in student notes LPG1_4_18 Penalty Notices for Disorder.

ACPO cannabis guidance

The ACPO cannabis guidance outlines the procedure when the police find a person in possession of a small amount of cannabis. The guidance is as follows:

- investigate the circumstances surrounding the alleged possession, including any lawful excuse
- eliminate any suspicion of a more serious offence, such as possession with intent to supply (The amount of cannabis in possession of the offender is irrelevant if there is other evidence of intent to supply)
- seize cannabis and secure evidence according to local procedure and compliance with PACE and its Codes

- complete contemporaneous notes of the incident that are PACE compliant and cover the points to prove for the offence, in line with local procedures
- complete local recording systems, such as stop/search forms, property seized logs and criminal intelligence reports

Ensure a record is made of the crime within local crime recording procedures. Under Home Office counting rules this will be treated as a sanctioned detection, providing the correct procedures have been followed.

Beyond simple possession

There will be circumstances where it is appropriate to arrest for possession of cannabis. This is very much left to the discretion of officers who will be expected to take into account the prevailing circumstances, together with arrest 'reasons' in deciding whether to arrest or not. An officer may consider arrest in the following situations. Remember these are guidelines and you should always apply the necessity criteria before deciding to affect an arrest:

- if it is smoked in public view
- when a person repeatedly offends
- if there is a local policing problem linked to cannabis use
- if in possession of cannabis and close to youth premises
- if the user is a vulnerable person

Fraud (LPG1_1_11) v1.02

Fraud by False Representation – Section 2 Fraud Act 2006

A person is guilty of an offence if he:

- dishonestly makes a false representation, and
- intends, by making the representation to make a gain for himself or another, or,
- to cause loss to another or to expose another to a risk of loss.

Power of arrest without warrant – constables / other persons

A representation is false if it is untrue or misleading, and the person making it knows that it is untrue or misleading, or that it might be. It can be stated in

words, communicated by conduct, even posted on a website. The gain or loss does not need to take place; it is the **intention** for it to happen that is important. Examples of this offence are wide ranging:

Saying something is a lawful requirement when it is not	Rogue trades people misrepresenting work required
Dishonestly using a credit card	Bogus collections
Selling fake goods as genuine articles	Phishing by emails
Putting false coins in a machine for goods	Using a stolen credit card

Possession of Articles for use in Frauds – Section 6 Fraud Act 2006

A person is guilty of an offence if:

- he has in his possession or under his control,
- any article for use in the course of or in connection with,
- any fraud.

Power of arrest without warrant – constables / other persons

The person can commit this crime any time and in any place, including from their home address, place of work or even a vehicle. An article can be anything and includes any program or data held in an electronic form so long as the article is 'for use in the course of or in connection with a fraud' to be committed in the future. The article does not have to be in the individual's immediate reach, it could be in a vehicle or premises some distance away.

It could also be being carried by another on their behalf, as long as the second element of the definition is present, in that both parties have knowledge of its presence.

Making or Supplying Articles for use in Frauds – Section 7 Fraud Act 2006

A person is guilty of an offence if he:

- makes, adapts, supplies or offers to supply any article -
- knowing that it is designed or adapted for use in the course of or in connection with fraud, or
- intending it to be used to commit, or assist in the commission of fraud.

Power of arrest without warrant – constables / other persons

Article means anything that can be used to make, alter, remove, supply or store something by electronic means in connection with fraud.

Obtaining Services Dishonestly – Section 11 Fraud Act 2006

A person is guilty of an offence under this Section if he obtains services for himself or another by a dishonest act, and in breach of subsection 2.

A person obtains services in breach of subsection 2 if:

- (a) they are made available on the basis that payment has been, is being or will be made for or in respect of them,
- (b) he obtains them without any payment having been made for or in respect of them or without payment having been made in full, and
- (c) when he obtains them, he knows that they are being made available on the basis described in paragraph (a), or that they might be, but intends that payment will not be made, or will not be made in full.

Power of arrest without warrant – constables / other persons

The types of services covered by the Act are extremely varied; anything from a haircut to window cleaning, to receiving cable TV to using a car wash.

Remember, a taxi journey ride or a hotel room is a service; a meal is property and would be fraud by false representation.

The person must dishonestly carry out an act to obtain the service and to avoid payment. The service must be obtained as a result and it is not sufficient if payment is only delayed, it must be avoided in whole or in part.

Drugs – Supply, Importation, production and manufacture (LPG1_1_12) v1.00

Supply controlled drug – Section 4 Misuse of Drugs Act 1971

It is an offence for any person unlawfully to:

- supply a controlled drug to another;
- be concerned in the supply of such a drug to another;

- offer to supply a controlled drug to another, or
- be concerned in the making of an offer to supply such a drug to another.

Power of arrest without warrant – constables / other persons

Possession

Possession of a controlled drug with intent to supply

This is an offence under Section 5 (3) of the Misuse of Drugs Act 1971

It is an offence for a person to have a controlled drug in their possession whether lawfully or not, with intent to supply it unlawfully to another.

Importing, Production and Manufacture

Clearly, an effective measure of prevention would be to restrict the supply of controlled drugs and with this in mind the law provides the maximum permissible punishment for persons concerned in the following drug activities:

- importation;
- manufacture; and
- supply of certain controlled drugs.

Production of a controlled drug - Section 4 (2) of the Misuse of Drugs Act 1971.

Section 4 (2) states it is an offence for any person unlawfully to:

- produce a controlled drug or be concerned in the production of a controlled drug.

Power of arrest without warrant – constables / other persons

'Produce' means manufacture, cultivate or any other method or production.

This offence would cover:

- preparing opium for smoking (still common in some communities); and
- unlawfully producing, or attempting to produce, a controlled drug, such as LSD or amphetamine.

Closure Notices

As a result of continuing problems with so called 'crack houses', legislation was brought in under the Anti-social Behaviour Act of 2003 to close premises used or concerned with the misuse of drugs.

Section 1 of the Act states that if a police officer not below the rank of Superintendent (who becomes the 'authorising officer') has reasonable grounds for believing –

- a) that at any time during the relevant period the premises have been used in connection with the unlawful use, production or supply of a Class A controlled drug; and
- b) that the use of the premises is associated with the occurrence of disorder or serious nuisance to members of the public;

then that officer may authorise the issuing of a closure notice.

Note: under the power given by the amendment to Part 1(A) of the Anti-Social behaviour Act 2003 by the Criminal Justice and Immigration Act 2008 the Local authority are able to act with the same powers as the police but ONLY for occasions when significant and persistent disorder or persistent serious nuisance to members of the public is being committed and does NOT extend to drug offences.

Dogs - Dangerous, Fighting and Guard Dogs (LPG1_1_13)

v1.02

Fighting Dogs - Section 1, Dangerous Dogs Act 1991: Section 1(1) of the Dangerous Dogs Act 1991 sets out which types of dogs the prohibitions apply to:

- Pit Bull Terriers (PBT)
- Japanese Tosa
- Dogo Argentinos
- Fila Brazilieros

It is important that you remember that section 1 of the Act only applies to those 'types' of dogs. The Secretary of State may add further types in the future if necessary. The word 'type' has a wider meaning than 'breed'. This means that

whether a dog is considered dangerous, and therefore prohibited, will depend on a judgment about its physical characteristics and whether they match the description of a prohibited 'type'. This assessment of the physical characteristics is made by a court.

If it is alleged that a dog is of a type to which this section applies, it is presumed to be so until the owner proves to the contrary. If there is any doubt, the dog may be seized and taken to kennels where the owner may have it examined at their own expense. Under section 1 of the Dangerous Dogs Act 1991 the burden of proof is reversed and it is the owner, or person in possession at the time of the offence, who must prove to the Court that the dog is not of the prohibited type.

You may have a trained police 'Dog Legislation Officer' (DLO), other specialist role or named person within your force to contact for advice.

Section 1(2) prohibits the following:

No person shall

- a) **breed**, or breed from, a dog to which this section 1(1) applies;
- b) **sell or exchange** such a dog or offer, **advertise** or expose such a dog for sale or exchange;
- c) make or offer to make a **gift** of such a dog or advertise or expose such a dog as a gift;
- d) allow such a dog of which he is the owner or of which he is for the time being in charge to be in a public place **without being muzzled** and kept on a lead; or
- e) **abandon** such a dog of which he is the owner or, being the owner or for the time being in charge of such a dog, allow it to stray.

Any person who contravenes Section 1(2) is guilty of a summary offence.

Powers: Section 5(1) allows for a dog in a public place to be seized by a police constable or authorised officer of a local authority if it is of a type as set out in section 1(1). Section 5(2) provides for a warrant to be sought for the seizure of dogs on private premises if they are evidence of any offence under the Act. The

warrant would give the constable a right of entry, using force if necessary as well as the right to seize the dogs.

Research your own force policy regarding what you should know, and action you should take, if dealing with an incident involving an alleged, or potential, dangerous dog. Your force dog section will normally provide advice and assistance.

Dangerously Out of Control Dogs, Section 3 Dangerous Dogs Act 1991:

It is very important that you remember that Section 3 offences can apply to any type or breed of dog. This is in complete contrast to Section 1 above as that only applies to certain types of dogs.

Section 10(3) states:

A dog shall be regarded as dangerously out of control on any occasion on which there are grounds for reasonable apprehension that it will injure any person whether or not it actually does so.

So you can see that there doesn't need to be actual injury caused to a person but you will need to prove 'reasonable apprehension' of injury. Where a dog or dogs have been set on another animal, if an owner of the animal or a bystander is in fear of their own safety, this may be sufficient for seizure of the dog or dogs by the police and a prosecution under section 3.

Dogs Dangerously Out of Control in a Public Place:

Section 3(1) states: If a dog is dangerously out of control in a public place

- a) the owner and
- b) if different, the person for the time being in charge of the dog is guilty of an offence

A person who contravenes Section 3(1) is guilty of a summary offence.

Note: If the dog injures any person then the above person would be guilty of an **aggravated** offence which is triable either way. An owner of a dog may have a defence, however, if they prove that the dog was (at the material time) in the charge of a person whom he reasonably believed to be a fit and proper person to

be in charge of it. You may seize any dog that is dangerously out of control in a public place. Where a person is convicted of any of these offences the court may order the destruction of the dog and may disqualify the offender from owning a dog.

Dogs Dangerously Out of Control in a Place which is Not a Public Place Where the Dog Is Not Permitted: Section 3(3) states:

If the owner or, if different, the person for the time being in charge of a dog allows it to enter a place which is **not** a public place but where it is **not** permitted to be and while it is there

- a) it injures any person, or
- b) there are grounds for reasonable apprehension that it will do so, he is guilty of an offence

A person who contravenes section 3(3) is guilty of a summary offence.

If the dog while so out of control injures any person then the above person would be guilty of an **aggravated** offence which is triable either way.

Control of Guard Dogs, Guard Dogs Act 1975: The Guard Dogs Act 1975 makes provisions to control the use of guard dogs on premises to ensure that they do not constitute an unreasonable danger to the public.

Two offences are provided by the Act:

- to use or permit the use of a guard dog on premises unless under the control of a handler or secured so that it is not at liberty to go freely about the premises
- to fail to clearly exhibit a warning notice at each entrance of the premises where a guard dog is in use

'Premises' is defined by this Act as:

- land other than agricultural land
- land within the curtilage of a dwelling-house
- buildings, including parts of buildings, other than dwelling-houses

Note: The Act does not apply to guard dogs kept to protect dwelling houses or agricultural land.

A person guilty of this offence is liable on summary conviction to a fine.

Rape and Assault by Penetration (LPG1_1_14) v1.00

In addition to LPG1.1.14 Student Notes, you should also read LPG1.3.30 Initial response to sexual crime and LPG1.4.19 Scenes of major crime.

Sections 1 to 4 of the Sexual Offences Act 2003 deal with offences where the defendant (A) engages in sexual activity with the complainant, without the complainant's (B's) consent. An offence is committed if the complainant does not consent and the defendant does not reasonably believe that the complainant consents to the relevant sexual act.

Section 74 Sexual Offences Act – Definition of Consent

Section 74 of the Sexual Offences Act 2003 which defines consent as:

A person consents if he agrees by choice, and has the freedom and capacity to make that choice.

In other words, a person may not have the capacity to consent to sexual activity because, for instance, they experience mental ill health. Additionally, a person may not have the freedom to consent because they are forced by, for example, violence or the threat of violence. Where the complainant has both the capacity (understanding and age) and the freedom (not constrained in any way) the critical question is whether the complainant agrees to the activity by choice.

Whether a belief in consent is reasonable is to be determined by investigating all the circumstances, including any steps A has taken to ascertain whether B consents. However, a child under the age of 13 years lacks the capacity to consent and so the defendant's belief in consent from any person less than 13 years of age is irrelevant.

Victims may submit to assault but this should not be interpreted as consent. The immediate responses to sudden and unexpected violence are normally shock and disbelief. The vast majority of victims then experience fright which can border on panic. This response is especially true when victims feel that their lives have been in imminent danger. Many police officers expect the average person to resist physically. However, a major study revealed that only a quarter

of rape victims struggle with their attackers. When victims realise they cannot escape even those who initially struggle cease to do so. This response can confuse everyone, even victims. This reaction is based on profound primal terror resulting in a frozen fright response. Victims submit in order to avoid being killed, but this can be wrongly interpreted as consent.

Section 75 Sexual Offences Act 2003: Evidential presumptions about consent

Section 75 of the Sexual Offences Act 2003 applies an evidential presumption on the issue of consent, and reasonable belief in consent to each of the four main non-consensual offences (Sections 1-4 Sexual Offences Act 2003). This means that where the prosecution is able to prove that the defendant raped or assaulted a person by penetration and certain circumstances existed and the defendant knew that those circumstances existed then:

- the complainant will be presumed not to have consented to rape or assault by penetration and
- the defendant will also be presumed not to have reasonably believed that the complainant consented

The circumstances referred to above are:

- a) any person was, at the time of the relevant act or immediately before it began, using violence against the complainant or causing the complainant to fear that immediate violence would be used against him
- b) any person was, at the time of the relevant act or immediately before it began, causing the complainant to fear that violence was being used, or that immediate violence would be used, against another person
- c) the complainant was, and the defendant was not, unlawfully detained at the time of the relevant act
- d) the complainant was asleep or otherwise unconscious at the time of the relevant act
- e) because of the complainant's physical disability, the complainant would not have been able at the time of the relevant act to communicate to the defendant whether the complainant consented
- f) any person had administered to or caused to be taken by the complainant, without the complainant's consent, a substance which, taking into account

when it was administered or taken, was capable of causing or enabling the complainant to be stupefied or overpowered at the time of the relevant act

Section 76 Sexual Offences Act 2003: Conclusive presumptions about consent

Section 76 of the Sexual Offences Act 2003 applies an evidential presumption on the issue of consent, and reasonable belief in consent to each of the four main non-consensual offences (Sections 1-4 Sexual Offences Act 2003).

Section 76 of the Sexual Offences Act 2003 states that, if it is proved that the defendant did the relevant act, for example, rape or assault a person by penetration and that:

- (a) the defendant intentionally deceived the complainant as to the nature or purpose of the relevant act
- (b) the defendant intentionally induced the complainant to consent to the relevant act by impersonating a person known personally to the complainant

there will be a conclusive presumption that the victim did not consent and also that the defendant did not believe she or he consented.

Section 1 Sexual Offences Act 2003: Rape

Triable on indictment only – Life imprisonment

Powers of arrest without warrant – Constables / other persons

Any person can be raped. The appearance of an individual is irrelevant; elderly persons, young children, men and pregnant women can all be raped. The actual offence of rape will inflict great damage. Even if no physical injury is inflicted there are many psychological aspects to be considered.

Section 1 makes it an offence for a person (A) intentionally to penetrate with his penis the vagina, anus or mouth of another person (B) without that person's consent if A does not reasonably believe that B consents.

This offence also covers surgically reconstructed genitalia, for example as a result of gender reassignment surgery. Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents. Rape and rape of a child under 13 are the only offences in the Act which can be committed by a man only as they relate to penile penetration.

It is worth noting however that a woman who encourages or assists a man to penetrate another person with his penis, not reasonably believing the other person is consenting, may be convicted of aiding and abetting rape.

The definition of reasonable belief: In order to convict someone for the offence of rape or assault by penetration (see below) it must be proved that the defendant did not reasonably believe that the other person consented.

In other words, did the defendant behave reasonably?

This is a subjective test. Whether the defendant's belief in consent is reasonable is to be determined having regard to all the circumstances at the time the alleged offence took place. This includes any steps the defendant took to ascertain whether the other person consented to penile penetration.

The definition of penetration: In respect of the vagina this will also include the vulva. The offence also covers surgically reconstructed genitalia, for example as a result of gender realignment surgery.

Section 2 Sexual Offences Act 2003: Assault by penetration

Triable on indictment only – Life imprisonment

Section 2 makes it an offence if:

- a) a person (A) intentionally penetrates the vagina or anus of another person (B) with a part of his body or anything else**
- b) the penetration is sexual,**
- c) B does not consent to the penetration, and**
- d) A does not reasonably believe that B consents**

Powers of arrest without warrant – Constables / other persons

Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents. The requirement that the penetration is 'sexual' means that practitioners who conduct intimate searches and medical procedures without a sexual motive are excluded from the offence.

This offence can be committed:

- where the penetration is by part of A's body, for example, a finger
- penetration by anything else could be for example, a bottle or vibrator provided:
 - the penetration is sexual, and B does not consent to the penetration and
 - A does not reasonably believe (previously discussed at rape) that B consents.

You must remember that the Section 1 offence of Rape involves penetration by a penis of the vagina, anus or mouth whereas this Section 2 offence of Assault by Penetration involves penetration by any part of the body or anything else whatsoever into the vagina or anus. Section 2 offence does not include penetration of the mouth.

In this offence it is not necessary for the victim to know, or explain what they were penetrated with. This means that the offence can be used in cases where, for example the victim is a person with a learning disability or, a person who was blindfolded at the time of the alleged incident - in other words where the evidence is not clear enough to justify a rape charge.

Agencies that can assist victims

This subject is covered in detail in the following sets of student notes.

- IND06 Assess the needs of individuals and provide advice and support
- LPG1.3.07 Victims and Witnesses
- LPG1.3.12 Victim Support

You should refer to these notes for further advice and information regarding this subject.

Protection of a complainant's anonymity

The anonymity of complainants of sexual offences is protected by Section 1 of the Sexual Offences (Amendment) Act 1992 when an allegation has been made that a relevant offence has been committed. Section 2 lists the relevant offences. This list is extensive and includes all of the sexual offences you will cover as a student officer under the Sexual Offences Act 2003. To ensure you comply always protect a victim, complainants or witnesses anonymity regarding **any** sexual offence. The type of information you need to protect is covered below.

- Summary offence – a fine not exceeding level five.
- Powers of arrest without warrant – Constables / other persons

Information that cannot be published: During their lifetime nothing relating to that complainant that is likely to lead members of the public to identify them may be included in any publication.

The information that cannot be published to avoid identification of a victim or complainant of sexual crime under section 1(1) of this Act is:

- the person's name
- the person's address
- the identity of any school or other educational establishment attended by the person
- the identity of any place of work
- any still or moving picture of the person

The protection of anonymity applies as soon as the offence has been committed irrespective of whether or not criminal or civil proceedings follow. Reporting of criminal proceedings is not prohibited but inclusion of any of the above information that may lead to a complainant's identification is prohibited.

Note: It is important that you remember that under section 1(2) of this Act this **protection of anonymity lasts for the complainant's lifetime**. There are circumstances under section 3 of the Sexual Offences (Amendment) Act 1992 where the anonymity granted may be lifted. This can be done by a Justice of the Peace for a summary offence or a judge for an either way or indictable

offence. Section 5 of the Act sets out various offences if anonymity is breached and it also creates various defences.

Section 1 PACE 1984 (LPG1_2_02) v1.02

Code A of PACE 1984 Codes of Practice governs the exercise by officers of statutory powers to stop and search a person or vehicle without first making an arrest.

Section 1 Police and Criminal Evidence Act (PACE) 1984

'A police constable may detain in order to:

- search any person, vehicle or
- anything which is in or on a vehicle,
- in any place to which the public has access,
- if he or she has reasonable grounds for suspecting that
- stolen or prohibited articles, or
- bladed or sharply pointed articles or
- prohibited fireworks will be found.

Any such article found during a search may be seized.'

Reasonable Grounds to Suspect

Things that you should be considering to ascertain if you have sufficient reasonable grounds to suspect are summarised in the mnemonic 'SHACKS':

Seen	What have you seen, including actions/behaviour?
Heard	What have you heard? Conversation, alarms, breaking glass, etc?
Actions	What you did, what the person did in response and so on. Did their actions increase or decrease your grounds to search?
Conversation	What did you say to them? What did they say to you? Did their reply increase or decrease your grounds to search?
Knowledge	What is already known about the individual in terms of intelligence rather than previous convictions? What is the time/location? Is the area a crime hot spot? Has the person been seen or pointed out by a witness?
Smell	Any smells that might give rise to the suspicion that drugs maybe present?

What can be searched for?

<ul style="list-style-type: none"> • Stolen articles • Prohibited fireworks • Articles with a blade or point 	<ul style="list-style-type: none"> • Prohibited articles which means: <ul style="list-style-type: none"> ○ offensive weapons, including a firearm ○ articles for going equipped for burglary, theft, taking a motor vehicle or other conveyance or fraud ○ offences under Section 1 Criminal Damage Act 1971
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Where can the search take place?

This is any place to which the public, or any section of the public have access on payment or otherwise at that time or any place to which the public have ready access, but not a dwelling. You can search people in gardens and yards of dwellings if you have reasonable grounds to believe the person to be searched or the person in charge of the vehicle does not reside there and are not at that place with the express or implied permission of the person who resides there.

To what extent can I search?

How far you search must depend on what you suspect is being carried and by whom or what you are looking for in the vehicle. Your search of a person in public is restricted to the removal of '**JOG**' - **J**acket, **O**uter clothing and **G**loves. A search of clothing that cannot be removed must be restricted to a superficial search of outer clothing.

This does not however prevent an officer from placing their hands inside the pockets of the outer clothing or feeling around the inside of collars, socks and shoes. A person's hair may be searched in public subject to the fact mentioned above, i.e. there is no power to remove headgear in public. A person's mouth may be searched in public.

If you require a person to remove more than 'JOG' headgear or footwear it must be conducted out of public view and the person searching should be of the same sex as the person searched. There should be no one present who doesn't need

to be there, and no person of the opposite sex present when you remove the clothing, unless the person being searched specifically requests it.

Procedure before a search (GO-WISELY)

You must inform the person being searched of their detention as soon as it begins and give them the following information:

- G** rounds for search
- O** bject and purpose of search
- W** arrant card (if in plain clothes or requested)
- I** dentity of officer
- S** tation to which attached
- E** ntitlement to a copy of the search record
- L** egal power used
- Y** ou are detained for the purposes of a search

Procedure after a search

Once you have completed a search you must make a record of the search on the appropriate form at the time and give a copy of it immediately to the person being searched or the person in charge of the vehicle, unless there are exceptional circumstances. If a record is not made at the time, you should inform the person searched of their entitlement to a copy of the record if application is made within 3 months, and to which police station they should apply.

If you stop a person with a view to searching them and, for whatever reason, you subsequently do not perform the search, a search record must still be completed. If you search an unattended vehicle you must leave a notice in or on it recording the fact that it has been searched, and stating where to get compensation if it is damaged. It should also show the name of the police station to which you are attached and from which station to get a copy of the

search record. If the person refuses or declines to provide any of their details, the officer should record a description of the person.

Stop and Search – Related Offences (LPG1_2_03) v1.02

Articles with blades and points

Having a Bladed or Sharply Pointed Article in a Public Place

Section 139(1) Criminal Justice Act 1988

Powers of arrest without warrant – constables / other persons

It is an offence for a person to have with him any article which has a blade or is sharply pointed in a public place without good reason or lawful authority, the onus of proof being on the carrier. This includes a folding pocket knife if the cutting edge of the blade exceeds 7.62 cm (three inches) or where the cutting edge is less than 7.62 cm if the blade locks in the open position (e.g. a lock knife).

Offensive weapons

Possession of an offensive weapon in a public place:

Section 1(1) Prevention of Crime Act 1953

Power of arrest without warrant – constables / other persons

Section 1(1) of that Act makes it an offence for:

‘any person without lawful authority or reasonable excuse, proof whereof shall lie on him, to have with him in any public place an offensive weapon.’

This means any article which is made or adapted for causing injury or intended by the person having it with him for such use by him or some other person.

Made - is defined as being made for the purpose of causing injury such as knuckledusters, batons, daggers and flick knives. Adapted - is defined as altering an article to cause injury, such as smashing a bottle to turn it into a weapon. Intended - is defined as an article that the person has in their possession with the intention of using it to cause injury, such as a shoe lace they intend to strangle someone with.

Having Bladed or Sharply Pointed Article on School Premises

Section 139A(1) Criminal Justice Act 1988

Powers of arrest without warrant – constables / other persons

Any person who has an article which has a blade or is sharply pointed with him on school premises commits an offence, the onus of proof being on the carrier. This includes a folding pocket knife if the cutting edge of its blade exceeds 7.62 cm (three inches) or where the cutting edge is less than 7.62 cm if the blade locks in the open position (e.g. a lock knife).

Having Offensive Weapon on School Premises

Section 139A(2) Criminal Justice Act 1988

Powers of arrest without warrant – constables/other persons

Any person who has an offensive weapon with him on school premises commits an offence. For the purposes of this offence, 'offensive weapon' has the same meaning as it does under Section 1 of the Prevention of Crime Act 1953.

School premises includes school grounds but would not include a dwelling, such as the caretaker's house. This includes primary and secondary schools but does not include further education establishments.

It is a defence for a person charged with one of these offences to prove that he had good reason or lawful authority for having the article or weapon with him.

Lawful authority - would include a police officer carrying a baton. Good reason - this is for the defendant to prove and would include taking home a wrapped-up carving knife having just bought it for use in the kitchen. It does not include forgetfulness or carrying the article for self-defence.

A more specific defence is also provided for a person charged with one of these offences to prove that he or she had the article or weapon with him on the premises in question:

- for use at work;
- for educational purposes;
- for religious reasons; or
- as part of any national costume.

Going equipped

Going Equipped for Burglary or Theft - Section 25(1) Theft Act 1968

Power of arrest without warrant – constables / other persons

A person shall be guilty of an offence if, when not at his place of abode, he has with him any article for use in the course of, or in connection with, any burglary or theft.

If you look at the definition of the offence several 'points to prove' can be identified. These are that the person:

- was not at their place of abode
- had the article with them and,
- knew they had it (the mental element), and
- intended to use it in the course of, or in connection with a burglary or theft

Anti-social behaviour (LPG1_3_01) v1.00

The **Anti-social Behaviour Act 2003** and associated measures have given agencies the powers they need to tackle anti-social behaviour and protect communities. In tackling anti-social behaviour there are a number of key partnerships, including Crime and Disorder Reduction Partnerships, Drug Action Teams and Local Strategic Partnerships.

Types of anti-social behaviour

Anti-social behaviour can be categorised into three groups:

Street scene	Nuisance neighbours	Environmental crime
<ul style="list-style-type: none"> • Begging • Anti-social drinking • Street prostitution • Kerb crawling • Sale of drugs • People congregating in intimidating groups 	<ul style="list-style-type: none"> • Intimidation and harassment • Noise • Rowdy and nuisance behaviour • Hoax calls • Animal related problems • Vehicle related nuisance 	<ul style="list-style-type: none"> • Criminal damage/vandalism • Graffiti • Fly-posting • Fly-tipping • Litter and waste • Nuisance vehicles • Drug paraphernalia • Fireworks misuse

For the purpose of obtaining an anti-social behaviour order (ASBO), the Crime and Disorder Act 1998 defines anti-social behaviour as:

'Acted in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself'. (Crime & Disorder Act 1998)

Tools and powers available to tackle anti-social behaviour

Anti-social behaviour orders (ASBOs)

ASBOs prohibit a person from continuing to do specified anti-social acts or entering defined locations, in order to protect the public in those areas and are effective for the period specified. They have a minimum period of two years. Orders can be made by way of application (often known as stand-alone), on conviction of a criminal offence (often known as CRASBOs or 1C orders) or as part of proceedings in the County Court.

The criminal standard of proof (beyond reasonable doubt) as opposed to the civil standard of proof (balance of probabilities) should be used to determine whether a person has acted in an anti-social way. However, as ASBOs are made in civil proceedings, **hearsay evidence** is admissible (however, hearsay evidence must still pass the other admissibility requirements). **Professional witnesses** can also be called to give their opinions as to matters within their expertise and can give evidence about their assessments of the respondent or his/her behaviour.

Although it is for the court to decide what **prohibitions** are to be imposed by the order, the applicant authority (which could include the police) should propose conditions (including duration) to the court. Careful thought needs to be given to the formulation of the conditions so they cannot be easily circumvented, can be easily understood by the perpetrator and a breach can be easily identified by the police.

The prohibitions should:

- cover the range of anti-social acts committed by the defendant
- be necessary, reasonable and proportionate
- be realistic and practical

- be clear, concise and easy to understand
- be specific when referring to matters of time
- be specific when referring to exclusion from an area
- be in terms that make it easy to determine and prosecute a breach
- contain a prohibition against inciting/encouraging others to engage in anti-social behaviour
- protect all people who are in the area covered by the order from the behaviour (as well as protecting specific individuals)

For further information on how to report anti-social behaviour see the Direct.gov website at:

http://www.direct.gov.uk/en/CrimeJusticeAndTheLaw/Reportingcrimeandantisocialbehaviour/DG_181715

Breaching an Anti-social Behaviour Order – Section 1(10) Crime and Disorder Act 1998.

Triable either way. Power of arrest without warrant – constables/other persons.

Both ASBOs and CRASBOs may be **varied or discharged** by application to the court that originally made it. Discharge before the minimum two year period can only occur with consent of both parties (i.e. defendant and relevant authority). ASBOs are not the only means of tackling anti-social behaviour. Other tools and powers include:

When an ASBO is in place there are provisions for applying for:

Individual Support Orders (ISOs) are civil orders for 10-17 year olds which impose positive conditions designed to tackle the underlying causes of a young person's anti-social behaviour.

Police Reform Act 2002

Section 50 of the Act provides a uniformed constable with the **power to require the name and address** from a person they believe has been acting or is acting in an anti-social manner. The Act makes it an offence for a person to fail to give

their name and address when so required or to give a false or inaccurate name.
Failing to provide or providing a false name or address.

Triable summarily. Power of arrest without warrant – constables only.

Part 1 of Schedule 4 to the Police Reform Act 2002 refers to the **powers of designated PCSOs**. Paragraph 3 endows such a PCSO with the power to require the name and address of a person acting in an anti-social manner, paragraph 4 to use reasonable force to detain that person, should they fail to give their name and address when required to do so, or give a false or inaccurate name or address in response to a requirement (but only if the PCSO is designated with the power of detention under Para 2, Schedule 4 of the Act).

The Police Reform Act 2002 also covers **powers to stop, seize and remove motor vehicles** being used in a manner which contravenes section 3 or 34 of the Road Traffic Act 1988 and is causing, or is likely to cause, alarm, distress or annoyance to members of the public. Under Section 59 (relating to stopping and seizing vehicles) of the Police Reform Act 2002 **PCSOs** have the same powers as a police officer except for the power to enter premises. In such a case the PCSO must be accompanied by and under the supervision of a police officer in order to enter the premises where he or she has reasonable grounds to believe the motor vehicle is.

Dispersal orders

Within designated areas the police and PCSOs have the power to disperse groups of two or more persons where they have reasonable grounds for believing that their presence in a public place or behaviour has resulted, or is likely to result, in a member of the public being harassed, intimidated, alarmed or distressed. Individuals can be directed to leave the locality and may be excluded from the area for up to 24 hours. A refusal to follow the officer's directions to disperse is a summary offence.

Is there a power to take children home?

A police officer or PCSO can request that a young person under 16 years return home and can use reasonable force as required to make them do so.

Acceptable behaviour contracts (ABCs) are voluntary contracts made between the individual and the local agency/agencies.

Parenting orders can be imposed on the parents of children who fall into one of the categories set out in Section 8(1) Crime and Disorder Act 1998 by a court and contain requirements to attend a counselling or guidance programme, to comply with the requirements in the order and to ensure that the child attends school.

Parenting contracts are two-sided arrangements where both the parents and the agency will play a part in improving the young person's behaviour.

Warnings range from **early intervention warnings** (written or verbal) that can be given by any agency and have no direct legal consequences, up to **formal warnings** by the police (cautions for adults, reprimands and final warnings for juveniles) that are recorded and monitored and can lead to a criminal prosecution for persistent offenders.

A **reprimand** is a formal verbal warning given by a police officer to a young person who admits they are guilty of a minor first offence.

A **final warning** is a formal verbal warning given by a police officer to a young person who admits their guilt for a first or second offence (if a warning is given for a first offence, it will be because the officer considers the offence to be so serious as to require a warning rather than a reprimand). The final warning triggers an automatic referral to the Youth Offending Team where the young person is assessed to determine the causes of their offending behaviour and a programme of activities is identified to address them.

A young person can only be issued with one final warning apart from exceptional circumstances where the previous final warning was issued over two years previously. A final warning cannot be issued to a young person who has already been convicted of an offence at court.

Adult and Youth Conditional cautions are not a replacement to the non-statutory police caution but are an alternative option where the imposition of conditions is an appropriate and effective way of addressing the offender's behaviour or making reparation for the effects of the offence on the victim or the

community. Both Adult and Youth conditional cautions must comply with the relevant Code of Practice

Note: Youth Conditional Cautions are not yet fully in force nationally.

Police cautions are a formal warning given by or on the instructions of a senior police officer and can only be given to an adult who has admitted guilt for an offence that they could have been charged or prosecuted for the offence and is only given for minor or less serious offences.

Penalty notices for disorder (PNDs) are issued for specified penalty offences such as throwing fireworks; being drunk and disorderly; causing harassment, alarm or distress; criminal damage up to £300 and retail theft up to the value of £100. PNDs can be issued to anyone over 16 years old (not under 18 years for possession of cannabis) and attract financial penalties depending on the offence. PCSOs can issue PNDs for some offences.

The Noise Act 1996 created the power for local authorities to investigate complaints from residents about excessive night noise and issue **Penalty notice for night noise**.

Drinking Banning Orders (DBOs)

Sections 1 – 14 of the Violent Crime Reduction Act 2006 introduced Drinking Banning Orders. A DBO can be made against an individual aged at 16 years or over if he/she has engaged in criminal or disorderly conduct while under the influence of alcohol and the court considers that such an order is necessary to protect other persons from further conduct by him/her of that kind.

The DBO can impose any prohibition on the subject as is necessary in order to protect other persons from criminal and disorderly conduct by the subject while he/she is under the influence of alcohol. It lasts for between a minimum of 2 months and a maximum of 2 years. It can be issued by a Magistrate's Court either on application by Chief Officer of Police or local authority after conviction.

Note: DBOs are only in force in certain local justice areas.

Closure powers

Sections 1-11 of the Anti-social Behaviour Act 2003 introduced a new range of powers that are available to the police in consultation with local authorities, to enable the swift closure of properties used in connection with the unlawful use, production or supply of Class A drugs, which are associated with disorder or serious nuisance to the local community.

Injunctions

Registered social landlords, housing and local authority injunctions offer immediate protection and set a clear standard of behaviour. An injunction prohibits the person concerned from engaging in the behaviour detailed in the injunction. Some injunctions can exclude a person from specified places or areas.

Dealing with victims and witnesses of anti-social behaviour

See IND06 (Assessing the needs of individuals and providing advice and support) and LPG1.3.07 (Victims and Witnesses) for further information on supporting victims and witnesses of anti-social behaviour.

Useful partners in tackling anti-social behaviour include:

- Anti-social Behaviour Co-ordinators
- Crown Prosecution Service expert prosecutors
- Youth Offending Teams (YOTs)

Community Safety Units (CSU) (LPG1_3_02) v1.00

Community safety means preventing, reducing or containing the social, environmental and intimidatory factors which affect people's right to live without fear of crime and which impact upon their quality of life. It includes preventative measures that contribute to crime reduction and tackle anti-social behaviour.

A Community Safety Unit is a central co-ordinating body for community safety.

The Role of the Community Safety Unit

There are several key components of a CSU's role that are common to all forces:

- developing a community partnership plan for the force's area
- providing information, guidance and advice to local community safety partnerships
- working with projects that assist the meeting of Government and local crime reduction targets
- forging relationships with other agencies dealing with community safety

The community partnership plan

The Crime and Disorder Act 1998 requires multi-agency partners to produce a partnership plan every three years, aimed at reducing crime and improving safety.

You and your CSU

Your work within the community is vital to address the priority areas identified in the Community Partnership Plan. Your CSU is also there to assist and support you in providing the best possible service to the community in which you work.

Confiscation of alcohol (LPG1_3_03) v1.00

The Confiscation of Alcohol (Young Persons) Act 1997 provides you with a power of confiscation where young people (under 18) are drinking in a relevant place.

PCSOs have the same powers of confiscation and disposal as a constable under section 1 of The Confiscation of Alcohol (Young Persons) Act 1997.

Section 1 (1) of the Act states that where a constable reasonably suspects that a person in a relevant place is in possession of alcohol and that either:

- i) he is under 18 or
- ii) he intends that any of the alcohol should be consumed by a person under the age of 18 in that or any other relevant place or
- iii) a person under the age of 18 who is, or has recently been, with him has recently consumed alcohol in that or any other relevant place

Offence

Failure to surrender alcohol – Section 1(3) Confiscation of Alcohol (Young Persons) Act 1997 - Triable summarily

Power of arrest without warrant – constables only.

The constable does not have to be in uniform to use this power.

Failure to surrender and refused consent to search provides the PCSO with the power to detain.

In both instances a person who fails without reasonable excuse to comply with a requirement imposed on him under subsection (1) commits an offence.

A constable may require them to surrender anything in their possession which is, or which the constable reasonably believes to be, alcohol or a container for such alcohol **and** to state their name and address.

The constable must also tell that person that failing to comply with the request is an offence according to Section 1(4) of the Act.

Section 1 (1AB) A constable who imposes a requirement on a person under subsection (1) may, if the constable reasonably suspects that the person is under the age of 16, remove the person to the person's place of residence or a place of safety.

Under section 1(2) of the Act an officer may dispose of anything surrendered to him. This power is not limited to alcohol.

(Officers should be guided by their own force policy in respect of disposal options).

Crime prevention advice (LPG1_3_04) v1.00

Crime prevention involves the anticipation, recognition and appraisal of a crime risk and the initiation of action to remove or reduce it.



The three elements of crime

For a crime to occur there must be three elements: the victim, the criminal and the opportunity.

When you attend the scene of a crime, after you have dealt with the initial needs of the victim and secured any suspects, ask yourself the 'why question'. Why did this crime occur? How can it be prevented from occurring again? If it cannot be prevented, how can the location be targeted? By asking these questions, we can take the initiative away from the criminal and instead of policing reactively, we can police proactively.

Community participation

The community must be involved in crime prevention if it is to be effective. Schemes like Neighbourhood Watch or Home Watch and Crime Prevention Panels make people more security conscious and aware of crime in their area.

Residents are encouraged to help the police in preventing and detecting crime by:

- improving the security of their own homes
- watching out for suspicious incidents and reporting them to the police
- targeting local problems, e.g. vandalism or graffiti, and devising ways of dealing with them
- campaigning for improvements in local facilities, such as lighting, fencing etc.

By building up your local knowledge you will work your beat more effectively and be better equipped to prevent crime.

Domestic abuse procedures (LPG1_3_05) v1.00

Attending a domestic abuse incident

It is important to attend domestic abuse incidents promptly. Before attending the incident try to find out whether:

- suspect is still present or in the locality
- suspect is on bail and if so whether there are any conditions attached
- suspect has a history of abuse
- there are any injunctions or child contact restrictions in force
- any party has previous convictions
- previous incidents have been reported at a particular address
- there is a history of assaults on police, the use of firearms/other weapons
- whether any diversity issues exist that may be relevant to service delivery
- whether any children are on the Child Protection Register or any other relevant child abuse intelligence system
- if the suspect has left the scene, a description of the suspect and, if applicable, a description of the vehicle including its registration

Initial actions at the scene

- re-assess victim and officer safety
- make immediate assessment of need for first aid/other medical assistance
- separate the parties, including any children
- confirm identity of the suspect and if they are no longer at the scene circulate a full description of the suspect and, if applicable, a description of the vehicle including its registration
- establish who is or was at the scene, including any children
- request appropriate checks on the suspect and household
- make accurate records of everything said by the suspect, victim and any witnesses, including children
- record the demeanour of the suspect, victim and any other witnesses, including children
- consider taking photographs or using a video camera to record evidence
- report findings to the investigating officer

- secure the safety of victims in their home. If this is not possible consideration should be given to taking them to another place of safety, e.g. the home of a relative or a refuge
- obtain an overview of what has occurred, taking into account the established risk factors associated with domestic abuse

Remember – your first priority should be to protect all persons present from injury. Statutory powers of arrest and offences that may be applicable to domestic abuse incidents

- Constables have a statutory power of arrest under Section 24 of PACE 1984. Refer to Code G of the Codes of Practice to the Police and Criminal Evidence Act 1984
- **Affray** - Section 3, Public Order Act 1986 (POA)
Triable either way. Power of arrest without warrant – constables/other persons
- **Fear or provocation of violence** – Section 4, POA
Triable summarily. Power of arrest without warrant – constables only
- **Intentional harassment, alarm or distress** – Section 4A, POA
Triable summarily. Power of arrest without warrant – constables only
- **Harassment, alarm or distress** – Section 5, POA
Triable summarily. Power of arrest without warrant – constables only
- **Harassment** – Section 2, Protection from Harassment Act 1997 (PHA)
Triable summarily. Power of arrest without warrant – constables only
- **Putting a person in fear of violence** – Section 4, PHA
Triable either way. Power of arrest without warrant – constables/other persons
- **Threaten violence to secure entry to premises** – Section 6, Criminal Law Act 1977
Triable summarily. Power of arrest without warrant – constables only
- **Intimidating a witness/harming or threatening to harm a witness** – Section 51, Criminal Justice and Public Order Act 1994
Triable either way. Powers of arrest without warrant – constables/other persons

- **Assault occasioning actual bodily harm** – Section 47, Offences against the Person Act 1861 (OPA)
Triable either way. Power of arrest without warrant – constables/other persons
- **Wounding or inflicting grievous bodily harm** – Section 20, OPA
Triable either way. Power of arrest without warrant – constables/other persons
- **Wounding or causing grievous bodily harm with intent** – Section 18, OPA
Triable on indictment only. Power of arrest without warrant – constables/other persons
- **Attempt to choke/strangle with intent in order to commit any indictable offence** – Section 21, OPA
Triable on indictment only. Power of arrest without warrant – constables/other persons

Cases involving suspected forced marriages

A forced marriage is a marriage to which one or both parties do not consent. If you encounter any indication of a forced marriage, contact your specialist officer who has responsibility for such matters, your specialist domestic abuse officer or a supervisor as soon as possible.

Positive action

In domestic abuse cases where evidence supports a power of arrest then the alleged offender should **normally** be arrested. This does not indicate a mandatory arrest policy and you should consider whether the action of arrest is proportionate. Certain factors can help identify when arrest would normally be the appropriate action in a situation where the power of arrest exists:

- the suspect has continued access to the victim so arrest is normally necessary to prevent further offences. Officers should ascertain the risk, evidence of abuse, the precise nature of the offence committed and the wider context of the relationship. Remember, there is evidence that domestic abuse often escalates in frequency and severity if unchallenged or unchecked and could lead to homicide.

- the victim's views of the future risk posed by the suspect must be taken into account, but officers should be alert to the fact that sometimes those experiencing domestic abuse underestimate the risk.
- where children are present, officers need to investigate their welfare and the nature of any offences against them as well as the adult victim.
- proactive investigation is crucial in cases of domestic abuse. This is because the victim, children, neighbours and other witnesses may be reluctant to disturb the perceived privacy of family life and fear threats, emotional pressure and violent reprisals from an abuser.

Note: Officers should make clear to the victim that it is the attending officer's decision whether or not to arrest, and the custody officer's and the Crown Prosecution Service's (CPS) decision to charge, **not** the victim's.

If you do **not** arrest a suspect at a domestic abuse incident:

- be prepared to justify your decision and make a detailed written record
- explain the reason to the victim
- give consideration to proceeding by summons under the Protection from Harassment Act 1997
- reassure the victim that every step will be taken to
 - fully record details of the incident on police IT systems
 - offer help and protection to the victim and children
 - gather evidence to support future criminal prosecution which could also be used in civil proceedings (e.g. child contact)
 - refer the victim and children to relevant agencies for support and assistance

Counter allegations

In cases where there are conflicting accounts of what has taken place, with each party claiming to be the victim, officers should examine whether one party may have used justifiable force against the other in self defence. Counter allegations require that police officers conduct immediate further investigation to attempt to establish whether there is a **primary aggressor**. The primary aggressor is not necessarily the person who was first to use force or threatening behaviour.

Officers should avoid making **dual arrests** without conducting a full investigation that seeks to identify whether there is a primary aggressor. Unless the offence suspected is serious, arrests should not be made for acts which officers have reasonable cause to believe were committed in self-defence.

Using interpreters at the scene

Officers should **not** seek to use family members, in particular children, to interpret, other than as a last resort. Preferably, consider using a telephone interpreting service (drawn from the National Register of Public Service Interpreters), but remember, the use of a telephone interpreting service is **not** appropriate for use in evidential procedures.

Duties in relation to child protection and child abuse investigation

In this context, a child is any person under the age of 18 years. Officers investigating domestic abuse offences should identify whether a child was present when the incident occurred or whether a child is ordinarily resident at the address where it occurred. When officers do not see children, they should always ask if children are resident at the address and should look for signs of children, such as clothing and toys and should check bedrooms.

Where any concern or uncertainty as to the safety of a child is in question, officers should notify the unit in their force responsible for investigating child abuse.

In relation to children, you should record:

- name, including other family names and previously used names
- date of birth
- sex
- normal address
- general practitioner for the child
- primary carer or care arrangements for looked after children
- school/nursery/child minder or other carer
- full details of the child's circumstances, as witnessed by the officer, to include personal welfare, cleanliness, communication ability, injuries and demeanour

- details of anything said by the child

Note: Officers do not need the consent of a parent to ask basic questions of a child to determine their well being. However, it is good practice to seek the parent's consent wherever possible.

Scene preservation and evidence gathering

In domestic abuse incidents it is often important to preserve the scene and gather relevant evidence. For further information on scene preservation and evidence gathering see OP3 (Responding to incidents, conducting and evaluating investigation). When writing up your statement there are also particular areas you should note in relation to domestic abuse incidents.

The police domestic abuse co-ordinator should be informed of all domestic abuse incidents. This may be the responsibility of the control room staff or you as the officer in the case. Check!

Dealing with victims and witnesses of domestic abuse

Information from witnesses is an essential element of a domestic abuse investigation. In investigating the incident be mindful of the traumatic effect that domestic abuse has upon victims and their families. For further information on dealing with victims and witnesses see IND06 (Assess the needs of individuals and provide advice and support) and LPG1.3.07 (Victims and Witnesses). For information on interviewing witnesses and victims see OP6a (Interviewing witnesses and victims). Victim personal statements also play a key role in prosecuting domestic abuse cases.

The domestic abuse suspect

For information on **interviewing** a suspect see OP6b (Interviewing suspects). For domestic abuse cases in particular there are certain potential lines of questioning. Certain **bail conditions** may be effective in protecting the victim.

Withdrawal of support for a prosecution

There are many reasons why victims of domestic abuse may seek to withdraw their complaints. These are discussed in more detail in LPG1.3.06 (Domestic

Abuse). In some cases the CPS will prosecute cases without the victim's evidence or against the victim's wishes. The CPS will need all the relevant information that you can provide to mount an effective prosecution including some specific points to be covered. There is also comprehensive guidance available on the completion of prosecution files.

Domestic violence (LPG1_3_06) v1.03

Understanding domestic abuse

This section is about Understanding Domestic Abuse and has been developed in partnership with the Women's Aid Federation of England and the CPS, both of which recognise that victims of domestic abuse and their abusers can be men and women in heterosexual, lesbian, gay, bisexual and transgender (LGBT) relationships and from different communities. However, the vast majority of domestic abuse victims who come to the attention of the police, CPS and other agencies are women experiencing abuse from male partners or ex-partners. But, it is important to note that domestic abuse occurs as a consequence of unequal power relationships and **anyone** may offend or be a victim.

ACPO, Home Office and CPS definition

'Any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults aged 18 or over, who are or have been intimate partners regardless of gender or sexuality. It will also include family members who are defined as mother, father, son, daughter, brother, sister, grandparent, whether directly related in-laws or step family member.'

It includes female genital mutilation, forced marriage and honour killings of adults, stalking and harassment.

The ACPO/Home Office and CPS definitions of domestic abuse also encompass cases of elder abuse within the family.

Women's Aid definition

'Physical, psychological, sexual or financial violence that takes place within an intimate or family-type relationship and forms a pattern of coercive and controlling behaviour. Crime statistics and research both show that domestic

violence is gender specific – usually the perpetrator of a pattern of repeated assaults is a man. Women experience the most serious physical and repeated assaults. Any woman can experience domestic violence regardless of race, ethnic or religious group, class, sexuality, age, disability or lifestyle.'

How does domestic abuse differ from stranger abuse?

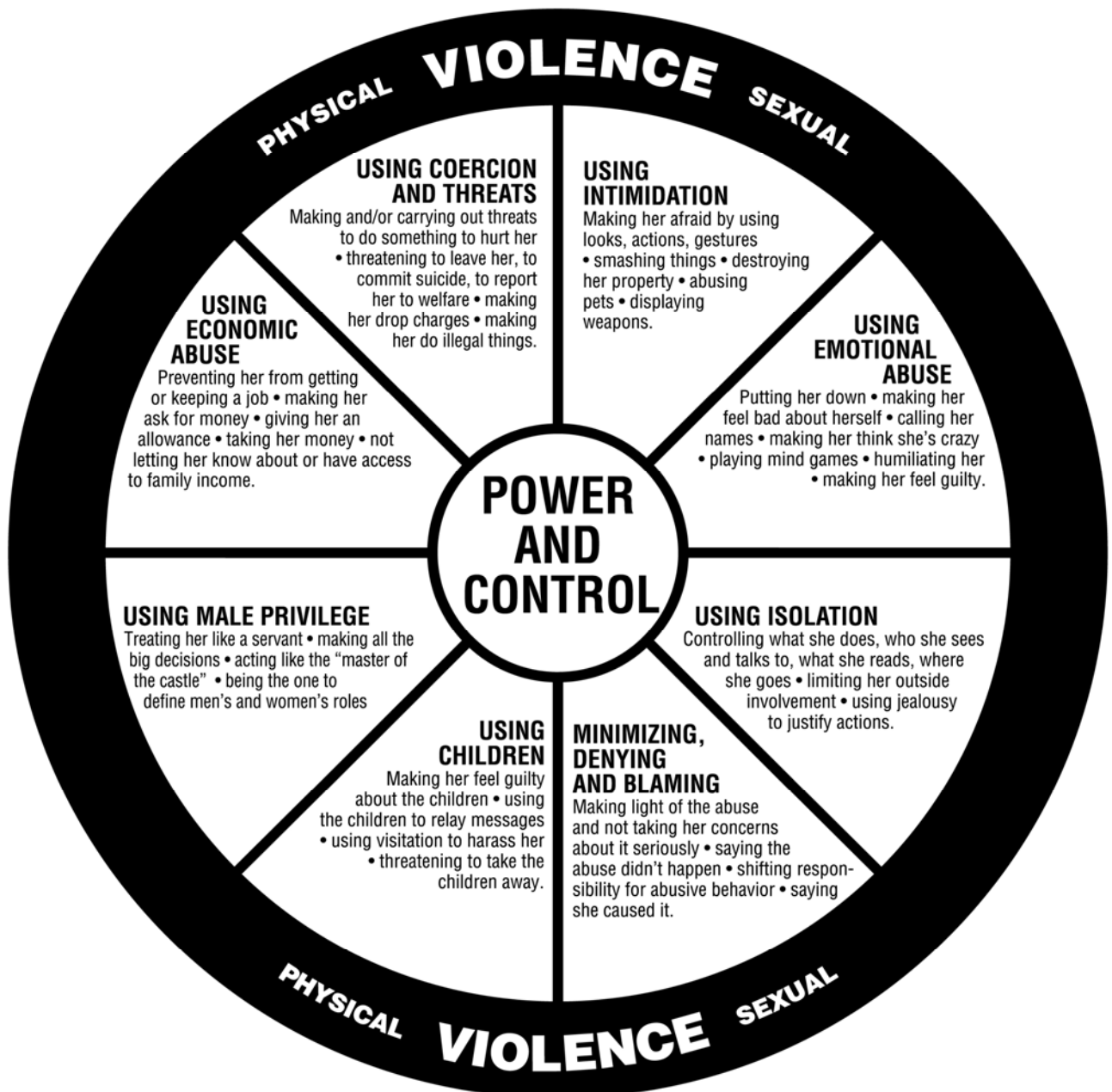
- The victim and suspect are known to each other and are, or have been, in a relationship. Therefore feelings of a betrayal of trust may be present.
- Domestic abuse often occurs in secret or semi-secret, behind closed doors. This privacy works against the victim by making it harder to disclose, for fear of shame or criticism, and easier for the suspect and agencies to argue that it is not as bad as claimed nor anyone else's business and that suspects are not a danger to the public.
- There may be a lack of independent evidence to prove any case. One person's word against another's may not be enough for conviction (hence the need for effective evidence gathering procedures).
- Historically, domestic abuse has been treated less seriously than stranger abuse and the credibility of the victim is frequently undermined with the suggestion that the victim was to blame or should have prevented the abuse. Victims often blame themselves as well.
- Domestic abuse is likely to be a continuing pattern of behaviour which can begin with general verbal abuse. Victims often report being assaulted many times before they first seek help. In some cases abuse increases with time in frequency and severity, but this is not true of all situations.
- The suspect is likely to have ongoing access to the victim, which makes it difficult to make a complaint without risking further abuse. Even if the relationship has ended, there may be ongoing contact, e.g., by child contact arrangements.
- Often the victim retains feelings of care and affection for the suspect and may hope that they will change. The suspect may know how to harm the victim in many subtle ways that would not be apparent to anyone outside the relationship.
- Injuries can be carefully placed, so they do not show. There is ample opportunity for, and evidence of, planned domestic abuse assaults. There

is evidence that domestic sexual assaults include more serious injuries than in stranger assaults.

- In the event of assault by a stranger, the home is a place of safety; in domestic abuse, it is the least safe place to be.
- Domestic abuse and abuse affects children, the wider family, and often the community, in direct and indirect ways.
- For an LGBT victim, reporting domestic abuse may effectively 'out' them to the authorities and others. Also, the wider LGBT community may not accept that there is an issue of same sex domestic abuse.

Forms of domestic abuse

Women victims of domestic abuse in Duluth, USA developed the 'Duluth wheel'. This describes nine categories of abuse in a circular 'wheel' around a central hub labelled 'Power and Control', to illustrate the types of domestic abuse.



Domestic abuse can take many forms including:

- making threats
- intimidation
- emotional abuse
- physical/sexual abuse
- using the children
- economic or financial abuse
- using isolation
- taking domineering role in the partnership
- playing down or denying own behaviour

The question as to whether it is 'domestic abuse' is perhaps to do with the motivation that lies behind the activity, the effect it has on the victim, and the context of the relationship and behaviour.

Children

There are clear links between domestic abuse and child abuse. Where one is present the other is likely to exist also. The children themselves may be subjected to physical, sexual, verbal or emotional abuse. They may also experience overhearing or seeing abuse or its effects or being injured during attacks by one parent upon the other or injury while trying to protect the victim. When dealing with domestic abuse therefore, the protection of children must be given a very high priority. Research shows that:

- in households where domestic abuse related offences are committed, there is a strong chance that child abuse is also occurring
- in approximately 90% of domestic abuse incidents occurring in households with children, the abuse is witnessed by the children
- children are still at risk of abuse after separation.

It is clear that domestic abuse itself adversely affects children. Even where children do not appear to be directly involved as victims, specialist police departments (child abuse investigation units) should be made aware of their presence at incidents and reports forwarded to social services where appropriate.

Children's rights should be considered and safeguarded in every domestic abuse case that is dealt with by the police and the CPS.

In order that the Crown Prosecution Service can make an informed decision about a particular case, police officers must provide them with detailed information including:

- The direct and indirect effect of domestic abuse on any children in the household.
- Victims' views on their own and their children's personal safety if a prosecution does or does not follow.
- Where the police are required to take a retraction statement from a victim, the statement should include information about the impact of the domestic abuse and the prospect of a prosecution on the victim's life and that of any children.
- Questions about the welfare of children need to be handled with great sensitivity. Remember that victims may fear that their children could be taken away. Indeed the suspect may use this as a threat and part of the abuse.

Children may also experience abuse directly. Child abuse may take many forms and may be physical, sexual, emotional abuse or neglect.

Remember:

- the police have duties to protect children
- the police have duties to hold offenders accountable
- the police work with other agencies to ensure that adult and child victims of domestic abuse receive support.

For further information on safeguarding children see **Department of Children, Schools and Families (2010) 'What To Do If You're Worried A Child is Being Abused'** See also:

https://www.education.gov.uk/publications/standard/Childrenandfamilies/Page21?viewAs=full&sortBy=DateIssued_Descending

Later in these notes we will look further at domestic abuse and child abuse.

Where parent(s) refuse to allow entry to their premises to see the children and it is necessary for you to do so for the purpose of 'saving life or limb' you may consider using the power under Section 17(e) of PACE 1984. Any refusal to

allow you to see a child might increase your suspicion of risk of harm to the child. A number of **legal powers** are available to you to help you protect children, such as:

- Section 1 of the Children and Young Persons Act 1933
- The Child Abduction Act 1984
- Section 46 of the Children Act 1989
- Sex Offenders Act 1997
- Sexual Offences Act 2003
- Domestic Violence Crime and Victims Act 2004
- Children Act 2004 (especially S11)

If child abuse is suspected, it may be essential that immediate action is taken and you may have to use your powers to take the child into police protection. In other cases, it may be more appropriate to pass your suspicions to the child abuse investigation unit (CAIU) so that the circumstances can be investigated with the help of other agencies. It is your duty to act in the most appropriate manner according to the situation, remembering that the overriding consideration must always be that the rights and welfare of the child are paramount.

Animals

There are also links between domestic abuse, child abuse and animal abuse. Keep the RSPCA in mind as a useful source of information.

Myths and reality surrounding domestic abuse

Myth	Reality
Domestic abuse occurs due to the abuser's psychological, alcohol or drug problems	Research shows that many domestic abuse perpetrators have no psychological, alcohol or drug problems. Whilst alcohol may be a factor in some incidents, victims often say that the abuser was violent whether drunk or sober.

<p>Violent abusers cannot control their abuse</p>	<p>Most people who abuse their partners can control their abuse. For example, they control their abuse towards others, such as friends or work colleagues. They are also able to control the abuse towards their partner in the company of others. Abusers also control the way in which they abuse. For example, they may limit their assault to parts of the body that are usually covered by clothing. The abuse is often premeditated, although it may seem to the victim that it happened spontaneously.</p>
<p>Domestic abuse only happens in economically deprived families and communities</p>	<p>Domestic abuse can happen to a person regardless of their background or social standing. Abuse in economically deprived areas may be more visible to police officers, because of the close proximity in which people live and the reduced stigma attached to police involvement. Also, victims in such communities may not have the financial resources required for escape, so may be more likely to come into contact with public services through staying at a refuge or in public sector housing.</p> <p>Research on domestic abuse shows that domestic abuse is not more common in any particular minority ethnic group.</p>
<p>Victims share some of the blame by provoking abuse</p>	<p>Research shows that domestic abuse is a pattern of behaviour by the abuser that is not explained by the victim's actions. In fact, victims often try for years to change their own behaviour in order to prevent the abuser from being violent, but the vast majority find that this makes no difference. Victims often blame themselves because they have been constantly told by the abuser that the abuse is their fault.</p>

<p>Victims exaggerate the abuse they experience</p>	<p>Rarely do victims describe their experience as domestic abuse, nor do they relate to labels such as 'victim' or 'battered wife'. They are more likely to deny or minimise the abuse and danger than to disclose or exaggerate it. The majority have experienced many incidents before reporting anything.</p>
<p>Abuse is passed through the generations so that abusers and victims learn their role from their experience growing.</p>	<p>While some abusers and victims have experienced abuse in their families, the majority of children who witness or experience domestic abuse do not go on to be victims or abusers. Equally, many victims and abusers who have not experienced abuse in their childhood become victims or abusers as adults. Labelling children who have experienced abuse as future abusers should be avoided. Domestic abuse occurs in all economic, social and cultural groups.</p>
<p>Victims choose violent partners and do not know better</p>	<p>Contrary to the opinion of some people, there is no evidence that victims repeatedly form relationships with different violent partners. There is, however, evidence that victims remain with violent partners and return to them. There is evidence that violent abusers are often violent to different partners.</p>
<p>Arranged marriages cause domestic abuse</p>	<p>Domestic abuse occurs in all types of relationships. Arranged marriages do not cause domestic abuse as, like other marriages, many are happy and are stable relationships.</p> <p>N.B. In an 'arranged marriage' both parties freely give their consent, whereas in a 'forced marriage' one party does not or both parties do not do so. Do not confuse the two.</p>
<p>Domestic abuse never occurs in same sex relationships</p>	<p>Research informs us that domestic abuse occurs in same sex relationships.</p>

Why victims stay

Asking an individual why they remain in a relationship where they are being abused effectively blames them for the abuse and thus it is inappropriate to ask them this question. However, it is important to consider the reasons why a victim might not leave an abusive partner in order to fully understand the position that victims are in. There are many possible losses of leaving:

- financial security
- loneliness and uncertainty of leaving
- a home
- stability for children regarding school, friends and surroundings
- support networks of friends, family and neighbours
- work
- social acceptability
- safety as victims can be at a higher risk when they leave violent partners or families
- the investment in a relationship as there is still stigma attached to divorce and single-parenthood, particularly in some communities
- the family unit for the benefit of self, family and children, as for some, the shame of marital breakdown, domestic abuse or 'coming out' about sexuality, may have far reaching implications for the victim, children and wider family

Particular difficulties may be experienced by certain individuals depending on their circumstances, for example: a woman from a travelling community experiencing abuse from her partner; a gay man experiencing abuse from his male partner; a young British born Yemeni woman who fears being taken abroad and forced into a marriage; an older, disabled man experiencing abuse from his daughter who is also his carer.

Identifying risk factors

When keeping victims and children safe it is important to be aware of risk factors that indicate that domestic abuse may escalate and result in serious abuse or even homicide.

- previous physical assault by the suspect
- previous sexual assault by the suspect
- escalation and severity of abuse, including use of weapons and attempts at strangulation
- child abuse by the suspect
- suspect's possessiveness, jealousy or stalking behaviour
- threats or attempts to commit suicide by the suspect
- threats or fantasies of committing homicide by the suspect
- previous criminality or breach of civil or criminal court order or bail conditions by the suspect
- suspect's psychological and emotional abuse of the victim
- suspect's misuse of illegal or prescription drugs or alcohol or experiences mental ill health

Understanding the links between domestic abuse and child abuse

Children may experience both directly and indirectly if they live in households where there is domestic abuse. This is recognised in '**Working together to safeguard children (2010)**' produced by The Department for Children, Schools and Families.

'Domestic violence is likely to have a damaging effect on the health and development of children and it will often be appropriate for such children to be regarded as children in need. Everyone working with women and children should be alert to the frequent inter-relationship between domestic violence and the abuse and neglect of children. Where there is evidence of domestic violence, the implications for any children in the household should be considered, including the possibility that the children may themselves be subject to violence or other harm. Conversely, where it is believed that a child is being abused; those involved with the child and family should be alert to the possibility of domestic violence within the family.'

The link is also recognised in the **ACPO (2008) Guidance on Investigating Domestic Abuse** and the Crown Prosecution Service Guidance.

Legal powers

Breach of a non-molestation order – Section 42A, Family Law Act 1996. Triable either way. Power of arrest without warrant – constables/other persons

A **non-molestation order** prevents a person molesting another who is associated with them, or molesting a relevant child. The Domestic Violence, Crime and Victims Act 2004 made breach of a non-molestation order a criminal offence. In certain circumstances an ex parte non molestation order can be made under Section 45 of the Family Law Act 1996. Breach of an ex parte non-molestation order is also a recordable criminal offence, but to be guilty an offender must be aware of the order.

Under the Family Law Act 1996, a court may make an **occupation order** which is a civil order that may stipulate who may reside at a previously shared home. It may exclude one of the parties from entering a specified area around it and the court must have regard to relevant children. Breaches of these orders are not a criminal offence but a power of arrest can be attached to these orders.

Causing or allowing the death of a child or vulnerable adult – Section 5, Domestic Violence, Crime and Victims Act 2004. Triable on indictment only. Power of arrest without warrant – constables/other persons. This is the offence of causing or allowing the death of a child or vulnerable adult where the offender is a member of the same household and had frequent contact with the child or vulnerable adult and committed an unlawful act which caused the victim's death, or allowed the death to occur.

For further and more in-depth information see:

LPG1_3_06_DomesticAbuse_SN

Victims and witnesses (LPG1_3_07) v1.00

The Government is improving the care provided to victims and witnesses because this will help to improve the whole criminal justice process thus improving the quality of evidence and helping to bring more offences to justice. This in turn will increase public confidence in the criminal justice system.

Please refer to 'Improving the Quality of Justice' e-learning course available under Open Learning at <http://mle.ncalt.pnn.police.uk>

The Criminal Justice System for England and Wales website www.cjsonline.gov.uk holds useful information concerning the role of witnesses and victims in the criminal justice process.

Within the victims and witnesses sections of the website are:

- victim virtual walkthrough
- witness virtual walkthrough

The Code of Practice for Victims of Crime

This Code requires services to be given to any person who has made an allegation to the police, or had an allegation made on his or her behalf, that they have been directly subjected to criminal conduct under the National Crime Recording Standard (NCRS). It is essential you understand your obligations under this code. Please visit the below link to see the full contents of the Code of Practice for the Victims of Crime.

<http://www.homeoffice.gov.uk/documents/victims-code-of-practice?view=Binary>

National Emergency SMS Text (ESMS)

Emergency SMS (ESMS) is a national and essential service for members of our communities who are unable to use the 999 voice service. It improves access to the 999 service for vulnerable people and is initially aimed at the hearing impaired and speech impaired whose preferred channel of choice is to contact the emergency services via SMS text. In this context the term 'hearing impaired' is used to represent deaf, deafblind, deafened and hard of hearing people.

Users of the ESMS service will be required to pre-register. The ESMS will allow people who are unable to use the 999 voice service to send an SMS text message to the UK 999 number and this message will then be passed to the relevant emergency service. ESMS will also provide direct access to the emergency services for those who do not have a special terminal to use Text Relay services or may be in a situation where it is not available. Further

information on the ESMS service, including how to register and how to send a text to the 999 service is available via the following website:

<http://www.emergencysms.org.uk>

Vulnerable Witnesses: A Police Service Guide

This guidance is designed to assist you through a number of processes that will afford a vulnerable or intimidated witness equal access to the criminal justice system. You are the gateway to the system and it is imperative that these witnesses are identified and assisted by officers from the very first point of contact, otherwise they will not have access to the special measures they might need. The guide can be found at:

<http://www.homeoffice.gov.uk/documents/police-guide-vlnrbl-witness.pdf?version=1>

The below links provide information that will assist you to advise a range of individuals how to keep safe and avoid becoming a victim: Keep Safe – Guide to personal safety for vulnerable adults

<http://www.crimereduction.gov.uk/keepsafe.pdf>

How you can prevent crime

<http://www.homeoffice.gov.uk/crime-victims/how-you-can-prevent-crime/>

Staying safe

<http://www.crimereduction.gov.uk/personalsafety.htm>

Domestic violence

<http://www.crimereduction.gov.uk/dv/dv01.htm>

Requesting personal information from victims and witnesses

http://www.stonewall.org.uk/documents/whats_it_got_to_do_with_you.pdf

Missing persons (LPG1_3_08) v1.02

The ACPO definition of a missing person is:

'Anyone whose whereabouts is unknown whatever the circumstances of disappearance. They will be considered missing until located and their well-being or otherwise established.'

The investigation into missing persons begins at the point of first notification to the police where as much detail as possible must be established. Every report should be assessed to identify the level of risk. This requires that officers and police staff ask relevant questions that identify any potential risk to the missing person so that an appropriate response can be made.

Risk assessment must be the subject of continuous review to ensure that the information that is currently available is properly considered.

Potential Links to Serious Offences

The majority of missing person enquiries are quickly resolved. In a few cases, however, the report of a missing person is the first step in a major crime case.

Therefore the initial stages of any missing person enquiry should commence on the basis that the case may escalate into a serious crime enquiry. Some examples of missing person related crime are:

- Homicide - If in doubt, think murder
- Abduction - If there appears to be an immediate threat of harm to a young person, consider implementing Child Rescue Alert
- Child abuse
- Sexual exploitation
- Human trafficking

Failure to apply such thinking in past cases has led to the loss of valuable investigative opportunities and could ultimately result in failure to trace the missing person or to establish sufficient evidence to convict a perpetrator.

The status of the relationship between the missing person and the person making the initial report can also be important. Experience suggests that it would be wrong for investigators to always assume such relationships are stable.

Child Rescue Alert (CRA) is a partnership between the police, the press and the public. Its aim is to locate abducted children and bring them to safety by using the media to promptly publish details about an abducted child's disappearance to the public. When an alert has been broadcast, the public will be asked to call **0300 2000 333** if they have information that may help in the investigation.

First Officer Attending Responsibilities:

Making immediate enquiries

The first officer needs to assess the circumstances of the disappearance in order to make a judgement regarding the risks. The depth of that information will vary according to the risk assessment. The decision, the evidence supporting it and the source of the information should be recorded on the appropriate form.

The first officer to attend should:

- notify a supervisor immediately of a high risk case
- complete the National Missing Person Reporting Form (NMPRF)
- gather sufficient information to enable effective and thorough investigation
- circulate the person reported missing on PNC
- circulate the person on local information systems
- identify the person who is the point of contact for the police and assess levels of support required for the family
- assess the environment/credibility of informant
- make background enquiries and telephone relatives / places frequented by the missing person to ask them to make immediate searches
- obtain any further information or physical evidence, such as dental charts / records, requested by the Senior Investigating Officer (SIO)

Conducting an initial search

A high percentage of missing persons are found hiding or asleep at location. After gathering the relevant information, the first officer should conduct a search of the premises and its environs. They should ensure that the environment is safe and that the search must be proportionate, legal, accountable and necessary (PLAN). It may be worthwhile recruiting help from friends, family and neighbours in order to achieve maximum coverage. Any search must be carried out thoroughly.

Below are some general principles of searching:

- The minimum standard for a search of premises is an 'open door search'
- Searches should work on a 3D basis (looking up and down and side-to-side)
- Officers should search voids and be conscious of space and proportion
- Evidence must be preserved - searchers should either have appropriate gloves or mark the find for scenes of crime staff
- Define the search area – this could include garden/sheds/garage etc.
- Take nothing at face value, check and confirm visually
- Certain factors, such as the weather, will need to be considered.
- Seek advice/guidance from supervisor or escalate to a Police Search Advisor (PoISA) if necessary
- Review, re-prioritise and record actions/requests throughout the search

The mnemonic 'SCENARIO' provides an aide-memoire of the search framework:

- **S** pecify item sought
- **C** onfirm the location
- **E** stablish circumstances of disappearance
- **N** ote factors influencing discovery
- **A** nalyse possible strategies
- **R** aise search strategies
- **I** dentify priority search
- **O** ngoing assessment

During the initial search, evidence which might reveal motives and lifestyle information, such as diaries, photographs, computers, mobile phones and evidence of substance abuse, should be examined.

If an initial search is unsuccessful, the next level of search will be conducted *using only* search trained teams.

Risk assessment - Every report should be assessed to identify the level of risk. This requires that officers and police staff ask relevant questions that identify any potential risk to the missing person so that an appropriate response can be made.

High Risk
<p>The risk posed is immediate and there are substantial grounds for believing that the subject is in danger through their own vulnerability; or may have been the victim of a serious crime; or the risk posed is immediate and there are substantial grounds for believing that the public is in danger.</p> <p>This category requires the immediate deployment of police resources and a member of the BCU senior management team or similar command level must be involved in the examination of initial enquiry lines and approval of appropriate staffing levels. Such cases should lead to the appointment of an SIO. There should be a press/media strategy and/or close contact with outside agencies.</p>
Medium Risk
<p>The risk posed is likely to place the subject in danger or they are a threat to themselves or others.</p> <p>This category requires an active and measured response by police and other agencies in order to trace the missing person and support the person reporting.</p>
Low Risk
<p>There is no apparent threat of danger to either the subject or the public.</p> <p>In addition to recording the information on the PNC, the police will advise the person reporting the disappearance that following basic enquiries and unless circumstances change, further active enquiries will not be carried out by</p>

police. The missing person's details will be passed to National Missing Persons Helpline (NMPH) in line with the national protocol. Low risk missing persons cases, however, must be kept under review as risk can increase with the passage of time.

Where a missing person has been identified as being high or medium risk, action becomes an obligation at every stage of a missing person investigation.

Detailed and accurate information must be recorded about the circumstances of the disappearance and the reasons for making the report. The risk identification should determine the speed and scale of the initial police response.

Remember if in doubt think the worst until the contrary is proved

The risk assessment process should be in writing and transparent. It should result in:

- a) Clear information being provided to those with an interest in the enquiry and on how they can update it and be updated
- b) An appropriate classification with the grounds and reasoning for this
- c) An indication of the police level of response and point of contact
- d) The identification of interested parties – family, friends, work and other agencies, e.g., social services, school.

Risk assessment is a critical initial appraisal and as the enquiry continues it must be revisited. It provides the basis for both priority and lines of enquiry.

Your initial enquiries may enable you to identify the possible reason for the person going missing. Examples include:

Lost Person: This is a person who is temporarily disorientated and would wish to be found, e.g., someone who has gone walking and does not know where they are.

Missing Person who has voluntarily gone missing: This is someone who has control over their actions and who has decided upon a course of action, e.g., wishes to leave home or commit suicide.

Missing Person under the influence of a third party: Someone who has gone missing against their will e.g. abduction or murder victim.

Hate Crime (LPG1_3_09) v1.00

Hate crime and hate incidents can have a devastating effect on a person's quality of life, not only those who are victims, but those who fear becoming victims and communities as a whole.

Definition of Hate Crime

A hate crime is a criminal offence which is perceived by the victim, or any other person, to be **motivated by hostility or prejudice** based upon the victim's actual or perceived: **disability, race, religion or belief, sexual orientation or whether they are transgender.**

Source: Home Office

<http://www.asb.homeoffice.gov.uk/members/article.aspx?id=7644>

What is a Hate Incident?

Hate incidents are non-crime incidents that are committed for the same reasons as hate crimes; they can manifest themselves in a variety of ways that could include such events as anti-social behaviour (throwing fireworks) or throwing mud against someone's house wall.

Police Actions for hate crimes and hate incidents

When dealing with victims, witnesses and families in relation to hate crimes or racial incidents, it is important to be able to have a feel for what they are experiencing. You must be able to show an understanding of the range of emotions that the victim or witness could be experiencing, even if they appear extreme to you.

Police responsibilities for victims

Every victim of crime should be given a copy of the Home Office leaflet 'Victims of Crime' (available from your station stores). This should be provided by the initial investigating officer (possibly you). You should familiarise yourself with this booklet.

Both crime and non-crime incidents must be reported, recorded, and investigated with equal commitment.

Recording hate crimes and incidents

Every identified hate crime incident should be recorded on force crime systems and allocated a unique reference number. The reporting and recording of hate crimes and incidents are required by the Home Office. The minimum information required is:

- personal details for each victim including full name and address, date of birth, gender (including transgender status if applicable), religion or belief, ethnicity, sexual orientation (if relevant), occupation or school (if applicable)
- language spoken, whether a repeat victim and whether previous incident was reported
- details of the type of incident, the crime or details of the behaviour that led to the report should be recorded
- description of the location including home, place of worship or education, street, leisure facility, workplace, licensed premises, public transport, internet or other as appropriate
- geographic position, e.g. house number, street name, postcode or map reference
- description of incident to include whether the incident is part of a series, if an extremist organisation is involved and who identified the incident as a hate crime

Summary

After reading these student notes, you should be able to demonstrate a knowledge and understanding in relation to: hate crime, hate incidents and effects on victims.

You may wish to view the Crown Prosecution Service's hate Crime reports for the last few years found at:

<http://cps.gov.uk/publications/equality/>

Solvent abuse (LPG1_3_11) v1.00

Many young people, mainly between the ages of 11 and 16, are abusing solvents and other volatile substances. This abuse is much wider than glue-sniffing and covers the inhalation of many household substances whose vapours have effects similar to drugs, such as:

- fast-drying glues, cements and contact adhesives
- paints, lacquers, thinners, correcting fluid and thinner
- petroleum products, lighter fuel, anti-freeze, hair lacquer and nail varnish remover
- propellant gases in aerosol sprays such as deodorants, air fresheners and fire extinguishers
- surgical spirit, shoe and metal polish and dyes

Common effects of solvent abuse include intoxicated and anti-social behaviour, unsteady appearance, slurred speech and visual disturbance. Some users experience hallucinations and may become aggressive, committing reckless acts. Continuous abuse of these substances leads to a 'sniffer's rash' around the nose and mouth, eye problems, liver and kidney damage and even brain damage.

NB Volatile substances have a direct effect on the heart, so sudden exertion or fright can result in the heart beating erratically which could lead to death. You should consider this and avoid entering into a chase.

Offences

The Intoxicating Substances (Supply) Act 1985 - Triable summarily

Powers of arrest without warrant – constable only

This Act makes it an offence for a person to supply or offer to supply a substance other than a controlled drug:

- a. to a person under the age of eighteen whom he knows, or has reasonable cause to believe, to be under that age; or
- b. to a person
 - i. who is acting on behalf of a person under that age; and

- ii. whom he knows, or has reasonable cause to believe, to be so acting,
if he knows or has reasonable cause to believe that the substance is, or its fumes are, likely to be inhaled by the person under the age of eighteen for the purpose of causing intoxication.

Cigarette Lighter Refill (Safety) Regulations 1999 - Triable summarily

Powers of arrest without warrant – constables only

Gas fuels continue to be associated with the majority of deaths. These regulations, which are provided for by Section 11(1)(b) Consumer Protection Act 1987, make it an offence for any person to supply any cigarette lighter refill canister:

- containing butane or a substance with butane as a constituent part
- to any person under the age of eighteen

There is a statutory defence under Section 39 of the Consumer Protection Act 1987 for the accused to show that they took all reasonable steps and exercised all due diligence to avoid committing the offence. You should investigate offences under both Acts thoroughly.

Victim Support (LPG1_3_12) v1.00

Victim Support is an independent national charity. Trained volunteers, based in local schemes, contact people following a crime to offer free confidential support and advice. People are referred to Victim Support by the police and other organisations, or make direct contact themselves to ask for help. Three general categories of help are catered for by Victim Support, practical, crisis intervention and long term help.

Victim Support offers:

- someone to talk to in confidence
- information on police and court procedures
- advice on compensation and insurance matters
- liaison with other organisations on behalf of victims
- contact with other sources of help
- volunteers who will accompany people to the police station and to court

Confidentiality

Victim Support is a confidential service. Information given by victims will not be passed on or used in any way without the victim's consent.

Compensation for Victims

Victims of violence should be informed that they might be eligible for compensation from the Criminal Injuries Compensation Authority.

Your Responsibility

Every victim of crime should be given a copy of the Home Office leaflet 'Victims of Crime' (available from your station stores).

These leaflets are available in Bengali, Cantonese, Gujarati, Hindi, Punjabi, Urdu, Somali, Vietnamese, Greek, Turkish and Arabic. It is also available in the form of a Welsh/English bilingual leaflet. Additionally, it is available in Braille, large print and audio tape format.

Youth Offending Teams (LPG1_3_13) v1.00

The role of a youth offending team (YOT) is to identify the needs of each young offender and identify the problems that make young people offend, as well as measuring the risk they pose to others.

The primary work of the youth offending teams include:

- the swift administration of justice so that every young person accused of breaking the law has the matter resolved without delay
- confronting young offenders with the consequences of their offending, for themselves and their family, their victims and their community and helping them to develop a sense of personal responsibility
- intervention which tackles the particular factors (personal, family, social, educational or health) that put the young person at risk of offending and which strengthens protective factors
- punishment proportionate to the seriousness and persistence of offending
- encouraging reparation to victims by young offenders
- reinforcing the responsibilities of parents

This enables the YOT to identify suitable programmes to address the needs of the young person, so they can be rehabilitated, through:

- education, training or employment
- drug rehabilitation
- mental ill health assessment and treatment
- provision of accommodation

Options for police action following an offence include:

- Reprimand
- Final Warning

For further information see:

LPG1_4_12_TheCriminalJusticeSystem_SN

Child absentees/vulnerable persons (LPG1_3_14) v1.00

Section 105 of the Children Act 1989 defines a child as **a person under the age of 18.**

Parental responsibility

Parental responsibility under Section 3 of the Children Act 1989 means all rights, duties, powers, responsibilities and authority which by law a parent has in relation to his or her child and his or her property. Parental responsibility can be held by individuals or certain agencies.

The ACPO definition of a missing person:

'Anyone whose whereabouts is unknown, whatever the circumstances of disappearance. They will be considered missing until located and their well-being or otherwise established.'

The investigation into any missing child begins at the point of first notification to the police where as much detail as possible must be established. Every report should be assessed to identify the level of risk the child is in due to their missing status.

High Risk	
<p>The risk posed is immediate and there are substantial grounds for believing that the subject is in danger through their own vulnerability; or may have been the victim of a serious crime; or the risk posed is immediate and there are substantial grounds for believing that the public is in danger.</p>	<p>Requires immediate deployment of police resources and a member of the BCU senior management team or similar command level must be involved in the examination of initial enquiry lines and approval of appropriate staffing levels. Such cases should lead to the appointment of an SIO. There should be a press and media strategy and close contact with outside agencies.</p>
Medium Risk	
<p>The risk posed is likely to place the subject in danger or they are a threat to themselves or others.</p>	<p>Requires an active and measured response by police and other agencies in order to trace the missing person and support the person reporting.</p>
Low Risk	
<p>There is no apparent threat of danger to either the subject or the public.</p>	<p>In addition to recording the information on the PNC, the police will advise the person reporting the disappearance that following basic enquiries and unless circumstances change, further active enquiries will not be carried out by police. The missing person's details will be passed to National Missing Persons Helpline (NMPH) in line with the national protocol. Low risk missing persons cases, however, must be kept under review as risk can increase with the passage of time.</p>

Children missing from care homes

Young people in care and other persons, for example, older people, people who experience mental ill health or people with learning disabilities, are likely to be vulnerable when missing from their residential settings. A missing person report of this type must be given serious consideration. While the general categories of missing (high, medium and low risk) still apply, it is useful to recognise the further category of '**unauthorised absence**'. Such cases must still undergo risk assessment, but where there are grounds to believe the absence is careless or deliberate with no apparent risk, this category should be considered.

Examples of situations where unauthorised absence will apply are:

- running away after a dispute with a member of staff
- failing to return on time
- staying at a known location with a friend

Children absent from provided accommodation without permission

If a child who is subject to a care order or who is under police protection is absent from the provided accommodation without the permission of the person who is responsible for the child's welfare, they may be taken into police protection only if the police suspect that the child is **likely to suffer significant harm**.

A child missing from a secure unit or penal establishment may be liable to arrest and returned by police.

Crime and Disorder Act 1998

In addition to the provisions set out in the Children Act 1989 which aim to protect children, there are sections within the Crime and Disorder Act 1998 which relate to the care and protection of children, such as Parenting Orders, Child Safety Orders, local child curfews and power for police to remove truants.

Cruelty (Section 1 Children and Young Persons Act 1933)

(LPG1_3_15) v1.03

The Children and Young Persons Act 1933 was introduced to prevent any child or young person being exposed to moral or physical danger. The Act addresses such problems as cruelty, neglect, employment and performing in the field of entertainment.

Section 1(1):

If a person who has attained the age of sixteen years and has responsibility for any child or young person under that age wilfully assaults, ill-treats, neglects, abandons or exposes him, or causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, hearing, limb, or organ of the body, and any mental derangement), that person is guilty of an offence.

Note: The term 'mental derangement' is used to correctly to reflect the legislation. Outside legislative use the term 'mental ill health is preferred. (Refer NPIA/ACPO guidance on 'Responding to people with Mental Ill Health or Learning Disabilities' 2010)

The powers of arrest in relation to the Act:

- **Triable either way;**
- **Powers of arrest without warrant – constables / other persons.**

Categories of child abuse

We will consider child abuse under the four broad categories of:

- Physical Abuse
- Sexual Abuse
- Neglect
- Emotional Abuse

Emergency Police Protection Powers

Section 46 of the Children Act 1989 provides the power for police constables to take action to deal with such situations.

Where a constable has reasonable cause to believe that a child would otherwise be **likely to suffer significant harm**, he or she may:

- remove the child to suitable accommodation and keep the child there, or
- take such steps as are reasonable to ensure that the child's removal from any hospital or other place in which he or she is then being accommodated is prevented.

Child Protection Plan

Every local authority in England and Wales keeps a register, or list, of the names of children who need a **Child Protection Plan** to help keep them safe.

These child protection registers/lists contain confidential details of children who are at continuing risk of physical, emotional or sexual abuse or neglect, and for whom there is a Child Protection Plan. If a child's name is placed on the register, and consequently a Child Protection Plan is set up for them, only the professional workers directly involved with the family will know this.

The Child Protection Plan should say what the intended outcomes are for the child, i.e. the future situation everyone is working towards. The plan should say what Core Group members, including parents, will do to make the plan work.

Each case will be reviewed after three months to see if things have improved, then again every six months.

Drunk in a Public Place (LPG1_3_16) v1.00

Signs and symptoms of drunkenness

When dealing with an apparently drunk person the more obvious signs are:

- lack of physical co-ordination
- eyes watery, bloodshot or glazed
- slurred or incoherent speech
- complexion flushed and sweaty
- breath smelling of intoxicating liquor
- clothing may be dishevelled, dirty or stained with vomit

A person who is drowsy and smells of alcohol may also be suffering from: Diabetes, Epilepsy, Head injury, Drug intoxication or overdose, Stroke.

Offences relating to drunkenness

The two main offences in relation to drunkenness deal with being drunk in a public place and being drunk and disorderly.

Being drunk in a public place

- being found drunk – Section 12 Licensing Act 1872
- triable summarily
- power of arrest without warrant – constables only

Drunk and disorderly

- section 91(1) Criminal Justice Act 1967
- triable summarily
- power of arrest without warrant – constables only

The Licensing Act 1872, Section 12 states that it is:

‘an offence for any person to be found drunk in a highway or other public place, whether a building or not, or on licensed premises’.

The Criminal Justice Act 1967, Section 91(1) states that it is:

‘an offence for any person who whilst drunk in any public place to be guilty of disorderly behaviour’.

‘Disorderly’ has its ordinary and natural meaning such as noisy, aggressive, violent or quarrelsome. It is important to establish the person’s condition in order to prove that he or she is drunk and that the behaviour, including the words and conduct is ‘disorderly’.

Under no circumstances should a police officer take drunken people home if there is no responsible person at home who can take care/charge of them.

Harassment (Sections 1 – 4 Protection from Harassment Act 1997) (LPG1_3_17) v1.04

The Protection from Harassment Act 1997 was introduced to provide more effective protection and remedies for victims.

Harassment - Sections 1, 1A and 2 Protection from Harassment Act 1997

(1) A person must not pursue a course of conduct which:

- amounts to harassment of another, and
- which he knows or ought to know amounts to harassment of the other.

(1A) A person must not pursue a course of conduct which:

- involves harassment of two or more persons, and
- which he knows or ought to know involves harassment of those persons, and
- by which he intends to persuade any person (whether or not one of those mentioned above),
- not to do something that he is entitled or required to do, or
- to do something that he is not under any obligation to do.

A person who pursues a course of conduct in breach of section (1) or (1A) is guilty of an offence.

Power of arrest without warrant – constables only

Harassment: The types of behaviour that constitute harassment can range from, for example, threats, damaging a person's property to silent phone calls, sending unwanted gifts or ordering unwanted taxis.

The offences may be committed anywhere and there is no requirement to prove specific intent.

Course of conduct: The Act seeks to deal with conduct that has an element of persistence. A course of conduct in relation to a single person must involve conduct on at least two occasions. You should consider other legislation if you are dealing with a 'one-off' or isolated incident. 'Conduct' is not restricted to actions, but includes speech. While the Act provides that a course of conduct must involve conduct on at least two occasions, it does not specify how far apart in time the occasions may be.

It is also an offence for a group of people to arrange for one person to engage in a course of conduct which harasses another. However, the provisions on collective harassment do not apply to the racially aggravated forms, the offences added by section 32 of the Crime and Disorder Act 1998.

The definition of a course of conduct has been extended to include the conduct of another where it is aided and abetted by another. This covers where, for example, a person (A) carries out one act of harassment and then asks another person (B) to arrange a further act against the same victim. (A) would be liable to prosecution since he or she would be considered to have carried out harassment for the second time at the same time as (B) acted.

Defences: A course of conduct will not amount to harassment if the suspect can show:

- that it was pursued for the purpose of preventing or detecting crime or
- that it was pursued under any enactment or rule of law (or to comply with any condition or requirement imposed by any person under any enactment) or
- that in the particular circumstances the pursuit of the course of conduct was reasonable.

Putting people in fear of violence - Sections 4 Protection from Harassment Act 1997

- there is a course of conduct by the suspect,
- this course of conduct causes another person to fear, on at least two occasions, that violence will be used against him or her, and
- the suspect knows, or ought to know, the course of conduct will cause the other this fear on each of those occasions.

Powers of arrest without warrant – constables/other person

Course of conduct: This course of conduct causes another person to fear, on at least two occasions, that violence will be used against him or her.

Putting people in fear of violence: This represents the major difference between the two offences. 'Violence' is not defined, but is clearly significantly more serious than 'harassment'. The victim fears violence and this may be directed against the victim or against property.

Defences: It is a defence for people to show that the course of conduct:

- was pursued for the purpose of preventing or detecting crime, or
- was pursued under any enactment or rule of law (or to comply with any condition or requirement imposed by any person under any enactment), or
- the pursuit of his course of conduct was reasonable for the protection of himself or another or for the protection of his or another's property.

Note: The last defence is worded differently from its equivalent for the earlier offence and is more restricted than its equivalent for harassment.

Racially or Religiously Aggravated Harassment – Sections 32(1a) and (1b) Crime and Disorder Act 1998

- 1) A person is guilty of an offence under this section if he commits—
 - (a) an offence under section 2 of the Protection from Harassment Act 1997 (offence of harassment); or
 - (b) an offence under section 4 of that Act (putting people in fear of violence), which is racially or religiously aggravated.

Civil Remedies for Harassment – Section 3 Protection from Harassment Act 1997

Provide civil remedies for harassment, allowing the victim to get damages and / or an injunction (a court order instructing the offender to cease his / her conduct). Section 3 states:

- there must be an actual or apprehended offence of harassment;
- the person who is or may be the victim of this harassment may make a claim to a county court or to the High Court;
- the claim may be for damages and / or for the granting of an injunction;
- breaching such an injunction will be a criminal offence and is triable either way;
- alternatively, the court may issue a warrant of arrest for the breach (on application of the plaintiff).

Restraining orders

Section 5 & 5A of the Protection from Harassment Act 1997 provides a court with the power to make an order on conviction (Section 5) or acquittal (Section 5A) for an offence restraining offenders from further conduct which amounts to harassment or from further conduct which will cause fear of violence.

Powers of arrest without warrant – constables/other persons

Note:

If a person is found severely drunk or unconscious through drink, they must be treated as a medical emergency and an ambulance called. An unconscious or severely drunk person should not be taken to the custody unit. You are advised to put a drunken person in the recovery position while waiting for an ambulance if they are unconscious.

Mental III Health (LPG1_3_18) v1.00

All Student officers must complete the e-learning package entitled **Mental Health Awareness** to complete this module.

You may find it useful to read your Student Lesson notes LPG1_3_19 entitled Dealing with Mental III Health before commencing the e-learning package.

Summary:

By completing the e-learning package students will be able to demonstrate an understanding that mental ill health issues affect everybody and impact each individual differently. They will be able to:

1. Recognise and identify a range of indicators and responses to a variety of mental ill health issues including mental illness and learning disabilities.
2. Using effective communication skills they will encourage victims, witnesses and suspects who may have mental ill health or a learning disability to express their immediate needs in order to ascertain how the Police service can best support them, either singly or in a multi-agency context.
3. Outline a range of practical strategies to minimize the potential for confusion or agitation in situations involving people experiencing Mental Ill Health or with a Learning Disability.
4. To apply the provisions and powers of the Mental Health Acts and related Codes of Practice to deal lawfully and effectively with persons who may have mental ill health, ensuring that the person has access to the most appropriate professional help and support.
5. Outline the role of local multi-agency services and how they can be accessed in accordance with local policy to support people experiencing with mental ill health or with learning disabilities, so as to contribute to effective multi-agency working.
6. Manage information in accordance with relevant law and guidelines by identifying how to record and manage information, including with whom information should be shared whilst maintaining awareness of the sensitive nature of such information.

Dealing with Mental Ill Health (LPG1_3_19) v1.00

E-Learning:

Student officers should also complete the e-learning package entitled: **Mental Ill Health (Refer LPG1_3_18_QN)**

Some ways to help you interact effectively with people who experience mental ill health:

Your Position	Your Behaviour and Appearance
<ul style="list-style-type: none"> do not touch the person unless you are sure that they do not feel threatened by you give the person space and room to breathe approach in a non-threatening, cautious manner tell the person what you are doing maintain a safe distance and position yourself defensively 	<ul style="list-style-type: none"> if possible remove your helmet or hat because it can seem threatening do not stare at the person do not humour a schizophrenic by pretending to agree with their delusions even if this seems the kindest thing to do, it could rebound on you later be respectful, do not ridicule speak calmly in a low-pitched voice and reassure the person do not use your personal radio unless you have to

There are many factors that can lead to aggression from people who experience mental ill health, from fear to confusion and paranoia. Here are some ways in which you can deal with aggression that you may encounter:

- take the person out of a noisy environment
- if you have assistance coming, try to warn them not to use flashing lights and two-tone horns, unless it is absolutely necessary
- keep your hands in view, if you are not holding anything, make the fact obvious
- keep your movements to a minimum
- talk calmly and evenly; try to think how you sound and appear to the person
- make sure that the person knows that you do not mean them any harm
- continue to reassure them
- reduce your own body height by sitting down at the same height; always keep a safe distance between you and the person

Legislation

People have varying degrees of abilities and intelligence as do people who experience mental ill health. They may, or may not, need help in getting around and coping with daily life. Some examples of the conditions that are classified as mental ill health are schizophrenia, autistic spectrum disorders, including autism and Asperger's syndrome.

Note: The terms ‘mentally disordered’ and ‘mentally vulnerable’ mentioned below are used correctly to reflect the wording in the Codes of Practice and associated legislation. Outside legislative use the term ‘mental ill health’ is preferred. Refer NPIA/ACPO guidance dated 2010.

The terms ‘mentally disordered’ or ‘mentally vulnerable’ can include people with ‘learning disabilities.’ There are important differences between the two concepts and these should not be confused. This term covers a range of abilities and disabilities.

The definitions below are taken from legislation:

<p>Mental disorder</p> <p>A mental illness, arrested or incomplete development of mind, psychopathic disorder and any other disorder or disability of mind.</p>	<p>Psychopathic disorder</p> <p>A persistent disorder or disability of mind (whether or not including significant impairment of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the person concerned.</p>
<p>Mental impairment</p> <p>A state of arrested or incomplete development of mind (not amounting to severe mental impairment) which includes significant impairment of intelligence and social functioning and is associated with abnormally aggressive or seriously irresponsible conduct on the part of the person concerned.</p>	<p>Severe mental impairment</p> <p>A state of arrested or incomplete development of mind which includes severe impairment of intelligence and social functioning and is associated with abnormally aggressive or seriously irresponsible conduct on the part of the person concerned.</p>

Section 136 Mental Health Act 1983

If a constable finds in a place to which the public have access a person who appears to him to be suffering from mental disorder and to be in immediate need of care or control, the constable may, if he thinks it necessary to do so in the interests of that person or for the protection of other persons, remove that person to a place of safety.

Place of safety

This can be a residential accommodation provided by the local social services authority, a hospital, a police station, an independent hospital or care home for mentally disordered persons, or any suitable place, the occupier of which is willing temporarily to receive the patient.

Detention

A person removed to a place of safety under this section may be detained there for a period not exceeding 72 hours for the purpose of enabling him to be examined by a registered medical practitioner and to be interviewed by an approved social worker and of making any necessary arrangements for their treatment or care.

Good practice points

- where the place of safety is a hospital, immediate contact should be made with the hospital and social services department
- where the place of safety is a police station, immediate contact should be made with the local social services authority and appropriate doctor
- a record of the person's time of arrival must be made immediately he or she reaches the place of safety.

Section 44 Mental Capacity Act 2005 – Ill-treatment or neglect

Subsection (2) creates a criminal offence of ill treatment or wilful neglect of a person lacking capacity or who is reasonably believed to lack capacity, by:

- anyone responsible for that person's care
- donees of a lasting power of attorney, or an enduring power of attorney, or
- deputies appointed by the court

Power of arrest without warrant – constables and other persons

Note: If you suspect that an individual who may lack capacity, has been ill-treated or wilfully neglected by any person responsible for that person's care, you should seek the guidance of your supervisor.

Police Protection (Section 46 Children Act 1989) (LPG1_3_20) v1.00

Police Protection – Section 46 Children Act 1989 states:

Where a constable has reasonable cause to believe that a **child** would otherwise be likely to suffer **significant harm**, he or she may:

- remove the child to **suitable accommodation** and keep the child there, **or**
- take such steps as are reasonable to ensure that the child's removal from any hospital or other place in which he or she is then being accommodated is prevented.

This child is referred to as having been taken into **police protection**.

- child is defined as: any person under the age of 18 years.

Therefore the Act gives officers the **power** to remove or prevent removal of children who are in **urgent need of protection**. A child is referred to as having been taken into **Police Protection** if a police officer exercises this **power**.

Where the child is **not** considered to be at risk of significant harm, there is **no power** to remove a child or to enforce other arrangements.

Significant harm: The determination of what is or what is not 'significant harm' in relation to a child is a subjective judgement, which must be made by an individual officer at the time that he or she makes a decision. There are no absolute, legally or medically, defined criteria on which to rely when judging what constitutes significant harm. Whether harm suffered by a child is significant can be judged on the child's health and development compared with that which could be reasonably be expected of a similar child.

Harm: Ill-treatment or the impairment of health or development.

Development: The physical, intellectual, emotional, social or behavioural development.

Health: Either physical or mental health.

Ill-treatment - Includes sexual abuse and forms of ill-treatment which are not physical.

Suitable accommodation: A police station is not considered to be suitable accommodation for the purposes of this Act. A child under police protection should therefore not be brought to the police station except in exceptional circumstances, such as the lack of immediately available local authority accommodation, and then only for a short period. **On no account** should a child that has been taken into police protection be taken to the cellblock area of a police station. If, under exceptional circumstances, the child has to be brought to the police station every effort should be made to ensure that the child is also physically safe, comfortable, has access to food and drink, toilet and washroom facilities and is supervised at all times.

Social Services **must** be informed as soon as practicable after a child has been taken into police protection, as they have the responsibility of accommodating the child in a place of safety. 'Suitable accommodation' includes a local authority children's home or temporary foster care.

There are **two separate and distinct roles** for the police in relation to police protection: the "Initiating officer" and the "Designated officer". The same officer **must not** carry out the 2 separate roles. Home Office Circular 017/2008 refers to the officer using their Police Protection **powers** as the 'Initiating Officer' instead of the term 'Investigating Officer' used in the Children Act.

The Initiating Officer: Is the officer who initially takes the child into police protection and who undertakes the initial enquiries. As soon as is reasonably practicable that officer must do a number of things, some of which are set out below:

- complete a police protection form to record all the required details when Section 46 Children Act 1989 powers have been exercised,
- inform the local authority,
- inform the child (if he or she seems able to understand) of: what steps have been taken with regard to him or her and why,
- ensure that the case is inquired into by a **designated officer**,

- ensure that the child is moved to local authority accommodation or an approved refuge.

In addition the officer is also required to take reasonable steps, as soon as is reasonably practicable, to inform:

- the child's parents,
- every other person having parental responsibility, and
- anybody the child was living with before being taken into police protection of the steps that have been taken in respect of the child.

Notes:

- PCSO's do not currently have the power to take children into Police Protection.
- Children should be kept in police protection for as short a period as is reasonably possible and under no circumstances for more than **72 hours**.
- The Act does not provide a power of entry into premises in order to take a child into police protection. You may, however, consider using the power under Section 17 of the Police and Criminal Evidence Act 1984 to enter and search premises if it is necessary to protect life and limb.

The Designated Officer: Should be at least the rank of Inspector who takes an independent oversight of the circumstances. They are also responsible for doing what is reasonable to safeguard or promote the child's welfare, which can include allowing contact between those who also have a concern for the child's welfare, for instance, the parents. The responsibility of the designated officer continues until such time as the child is released from police protection.

The Crime and Disorder Act 1998

In addition to the provisions set out in the Children Act 1989 above there are sections within the Crime and Disorder Act 1998 which also relate to the care and protection of children. For your reference:

- **Parenting orders - Sections 8-10**

The order is designed to help and support parents or guardians in addressing their child's anti-social or offending behaviour.

- **Child safety orders - Sections 11-13**

Designed to prevent them becoming involved in crime.

- **Power for the police to remove truants - Section 16**

This power enables the police to co-operate with the local education authorities and schools to tackle truancy.

Criminal Justice & Police Act 2001. Local child curfews - Sections 48-49

These schemes replace those that were first introduced in the Crime & Disorder Act 1998 to deal with the problem of unsupervised children under 10 years on the streets. The CJA 2001 raises the age limit to children under 16 (who are unsupervised and not under the effective control of their parent or a responsible person aged 18 or over).

Welfare (LPG1_3_21) v1.00

Positional asphyxia

A person can stop breathing because of the position they have been held in. Asphyxia is the same as suffocation and prolonged asphyxia can result in brain damage even when it does not cause death.

Below are factors which have been shown to contribute to positional asphyxia:

- body position results in partial or complete airway constriction
- alcohol or drug intoxication, major risk factors
- inability to escape position
- prone to obesity, in particular large beer bellies
- restraints
- stress
- respiratory muscle fatigue, following violent muscular activity such as fighting or running away
- respiratory diseases, such as asthma and emphysema

Signs and symptoms

- body position restricted to prone, face down
- cyanosis: face is discoloured blue owing to lack of oxygen
- gurgling gasping sounds
- haemorrhages in the skin and eyes, particularly the eyelids, whites of the eyes, face, lips and behind the ears, owing to raised venous pressure

- an active prisoner suddenly changes to passive- from loud and violent to quiet and tranquil
- panic
- subject tells the officer that they cannot breathe

Excited delirium? - When a person exhibits violent behaviour in a bizarre and manic way rather than merely being violent. Below are factors which have been shown to contribute to excited delirium:

- psychiatric illness
- drugs, of which cocaine is the best known
- alcohol
- a combination of drugs, alcohol and psychiatric illness

Signs and symptoms

- bizarre or aggressive behaviour
- impaired thinking
- disorientation
- hallucinations
- acute onset of paranoia
- panic
- shouting
- violence towards others
- unexpected physical strength
- apparent ineffectiveness of incapacitant sprays
- significantly diminished sense of pain
- sweating, fever, heat intolerance
- sudden tranquillity after frenzied activity

Human Rights (LPG1_3_22) v1.00

On 2 October 2000 the Human Rights Act 1998 came into force in the UK. Its purpose was, and still is, to incorporate the various rights and freedoms contained in the European Convention on Human Rights into UK law. The rights and freedoms of the individual are protected from unjustified interference by the State.

The Act incorporates the Convention into UK law. This means that Human Rights Act issues can be heard in UK courts. Previously any issues concerning breaches of Human Rights within the UK could only be heard in the European Court of Human Rights, but this could take an extremely long time.

The European Convention for the Protection of Fundamental rights and Freedoms ECHR is an international treaty agreement made between member countries of the Council of Europe'

The Convention's provisions, which are set out in various **Articles** and **Protocols**, protect most, but not all, civil liberties from unjustified interference by the state, including various rights and freedoms. They also impose duties on the State to take positive measures to protect rights. Section 1 of the Human Rights Act 1998 is an introduction and simply identifies the Convention rights which are to be included in our law.

Section 6(3) (b) of Human Rights Act 1998- A public authority includes any person certain of whose functions are functions of a public nature).

For police officers only the acts done in the course of their duty will be treated as acts of a public authority.

A PCSO has no designated powers whilst off duty; only acts done in the course of their employment will be classed as acts of a public authority. However they do at all times remain a professional witness and therefore any action that they may take whilst off duty should always be carried out with due regard to the EDHR and Human Rights Act 1998.

Article No	Convention Right
2	Right to life
3	Prohibition of torture
4	Prohibition of slavery and forced labour
5	Right to liberty and security
6	Right to a fair trial
7	No punishment without law
8	Right to respect for private and family life
9	Freedom of thought, conscience and religion
10	Freedom of expression
11	Freedom of assembly and association
12	Right to marry
14	Prohibition of discrimination.
15	Derogation in time of emergency
16	Restrictions on political activity of aliens
17 + 18	Prohibition of abuse of rights and Limitation on use of restrictions on rights

Article 1 of the First Protocol	Protection of property
Article 2 of the First Protocol	Right to education
Article 3 of the First Protocol	Right to free elections
Article 1 of the Thirteenth Protocol	Abolition of the death penalty

Qualified rights

Articles 8, 9, 10 and 11 of the ECHR contain clauses which enable a public authority to justifiably balance or restrict them in the public interest. These rights are called '**qualified rights**'. The public interests allowed are as follows:

national security	economic well-being of the country
public safety	prevention of disorder or crime
protection of territorial integrity	protection of the reputation or rights of others
prevention of disclosure of information received in confidence	maintenance of the authority and impartiality of the judiciary
protection of health or morals	protection of rights or freedoms of others and freedom of expression for preventing the disclosure of information received in confidence

If a public authority breaches the rights in any of these four Articles of the ECHR on the basis of any of the public interests above, it can only do so to the extent that the limitation or restriction in question:

- is 'prescribed by or in accordance with the law'
- is 'necessary in a democratic society'
- is for one of the interests specifically listed

Please note that none of the 'qualified rights' are subject to restriction on all of the grounds detailed above.

Absolute rights

The Convention rights which do not contain the general public interest clauses are referred to as 'absolute or limited rights' and are Article 2 to 7 inclusive. Absolute or limited rights are those which **cannot** be restricted or balanced against any general public interest - these rights are 'cast in stone'. In summary and for our purposes, Articles 8, 9, 10 and 11 of ECHR are **qualified** because the state can restrict them for the better good of the community and Articles 2, 3, 4, 5, 6 and 7 of ECHR are **absolute or limited** because the state does not have this option.

Article 14 Prohibition of Discrimination in Convention Rights

It is not possible to pursue a case on Article 14 of ECHR grounds alone; there must be another Convention right at issue to which a claim of discrimination can be attached. There is not an absolute bar on differential treatment, but any discrimination must be strictly justifiable.

Who can be a victim?

A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by section 6(1) of Human Rights Act 1998 may:

- bring proceedings against the authority under this Act in the appropriate court or tribunal, or

Section 7 (1) Human Rights Act 1998:

- rely on the Convention right or rights concerned in any legal proceedings, but only if he is (or would be) a victim of the unlawful act

Case law has shown that 'victims' can be:

- a person directly affected
- a person at risk (but not as yet affected)
- a person indirectly affected, such as family members where the victim cannot bring the case personally (cases of loss of life)

Victims can be any person, non-governmental organisation or group of individuals claiming to be the victim of a violation.

Remedies a court can use

Individuals who believe their Convention rights have been infringed can rely on their rights:

- as a basis for an appeal, a habeas corpus application, or to seek judicial review
- to bring civil proceedings for damages

Applying human rights principles

Interpretation of the ECHR by the European Court of Human Rights has led to the development of the four principles of proportionality, legality, accountability and necessity plus the issue for 'public authority' accountability. An easy way to remember this is to consider the mnemonic PLAN:

- P** - Proportionality - One way of explaining the principle involved is to ask, "Would the action be using a sledgehammer to crack a nut?" or "Is there a less restrictive alternative?"
- L** - Legality - is the interference or restriction 'prescribed by law' or 'in accordance with the law' or 'lawful'?
- A** - Accountability. Not only will the European Court ask if the measure is lawful, and if so, is there a good reason for it, but also, can I account for what I have done to prove that it is really proportionate, legal and necessary?
- N** - Necessity. Articles 8-11 contain the words 'necessary in a democratic society'. The concept of "necessary in a democratic society" is explicitly set out in ECHR Articles 8-11, but it is a key part of ECHR case law in assessing whether any Convention right has been improperly violated.

PLAN your actions and ask yourself:

- is what I am doing proportionate?
- is what I am doing lawful?
- can I account for what I am doing to show that it is lawful, necessary to achieve a legitimate aim in a democratic society
- is what I am doing necessary and justifiable?

Recording the options you have considered, and the reasons for the decisions you have made will help you defend against claims that Convention rights have been unjustifiably interfered with.

Firearms awareness (LPG1_3_23) v1.00

Each police service has Authorised Firearms Officers, known as AFOs. These officers are specifically trained to work to a plan based on set tactics taken from the ACPO Manual of Guidance on the police use of firearms. The aim of most operations involving the deployment of AFOs is to identify, locate, contain and neutralise the threat posed.

Priorities in relation to a spontaneous incident

Your main priorities when dealing with an incident that may involve the criminal use of firearms are the safety of the public, police officers and the armed suspect.

What is expected of you?

There are primarily six things that you should consider during your initial assessment of the scene.

These are referred to as the 6Cs to help you remember them:

- **Confirm** - the location of the subject(s) and that firearms are involved
- **Cover** - in every case you must take cover, if possible, behind substantial material
- **Contact** - you now need to contact and convince your supervisors the nature of the risk and call for suitable backup
- **Civilians** - direct civilians to a place of safety
- **Colleagues** - prevent other officers coming into danger areas
- **Contain** - contain the situation as far as practicable but the emphasis is on safety

The use of Close Circuit Television (CCTV) by police (LPG1_3_24) v1.00

Closed Circuit Television (CCTV) is where video is transmitted for display or captured without being broadcast. CCTV is used in many ways, on cash machines, speed cameras, in car parks, taxis, trains, hospitals and court. It might be to monitor staff, prevent, investigate and detect crime, manage traffic and assist in public safety and protection.

The technical limitations of CCTV

CCTV cannot

- usually electronically zoom in on a recording to get a hugely clearer image, however, most CCTV cameras have optical zoom, which can be used **before the recording is made** to zoom in
- identify someone from a reflection in a car window
- look around corners

You should familiarise yourself with the many different ways that CCTV systems record. Most CCTV recordings use the combination of both multiplexing and time lapse recording. You should also be aware of the types of digital CCTV files and storage media.

Viewing CCTV footage

- be aware that a true representation of colours may not be shown. Colours can be distorted on an infra red sensitive camera which does not have an infra red filter, check if the system has an infra red filter
- the operator or owner of the system should be asked to access the footage as they should be familiar with the workings of the equipment and there is a danger if you try to access it first that footage may be lost
- check what time is displayed on the machine against actual time, include any discrepancy in statements taken from the provider of the images
- you must view any footage before you seize it. Look at the flow chart of what to do and what not do at Appendix 1 on viewing and retrieving images and put a copy of it in the back of your pocket notebook

Legal and policy frame work of CCTV

You may need to consider the following legislation, policies and guidelines and their relevance in relation to using CCTV images, seizing them and distributing them:

<ul style="list-style-type: none"> • Human Rights Act 1998 • Data Protection Act 1998 • PACE and the PACE Codes of Practice • Criminal Justice and Police Act 2001 	<ul style="list-style-type: none"> • Regulation of Investigatory Powers Act (RIPA) 2000 • Criminal Procedure and Investigations Act 1996 • Management of Police Information (MOPI)
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Using CCTV footage in an investigation

After seizing the footage you should take witness statements, for example, from the owner of the CCTV system/the operator and any person able to identify the suspect, following the guidelines for the necessary content of such a statement.

Exhibiting

When seizing, the item must be treated as an exhibit. (The seized VHS tape or downloaded digital footage becomes the master copy). Ensure that you follow the guidelines on what to do and what not to do in relation to exhibiting the item and exhibit labels.

Unable to seize the footage due to technical reasons

In such cases, depending on the severity of the incident and **force policy**, a retrieval request may be submitted to the retrieval officer. In addition, if you are the attending officer you must:

- record what you have watched and what was seen
- record why you are not seizing the CCTV
- obtain details of the CCTV owner (store keeper/ security manager etc)
- clearly state on the crime report your actions

- inform the CCTV owner of the reasons why you are not seizing the CCTV footage

The reason why you have not decided to seize footage must be properly documented.

Public Protection (LPG1_3_25) v1.00

The role of public protection is now a truly multi-agency one and the prime concern of MAPPAs (Multi-Agency Public Protection Arrangements). It has become a priority for us all, underpinned by the government's commitment to strengthen public protection through legislation.

The four functions of the MAPPAs framework:

- the identification of MAPPAs offenders
- the sharing of relevant information among those agencies involved in the assessment of that risk
- the assessment of the risk of serious harm
- the management of that risk

The following 'relevant offenders' are managed under MAPPAs

Category 1: those subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (registered sexual offenders).

Category 2: those sexual and violent offenders sentenced to a term of imprisonment of 12 months or more, and includes those sentenced to detention and training orders, hospital and guardianship orders.

Category 3: those other offenders, not in either category 1 or 2 but who are considered by the Responsible Authority to pose a risk of serious harm to the public.

Remember, the Responsible Authority comprises the Chief Officer of Police, the local probation board for that area and the Minister of the Crown exercising functions in relation to prisons, acting jointly.

The MAPPAs process has a series of levels under which all MAPPAs offenders, depending on their risk levels, are managed.

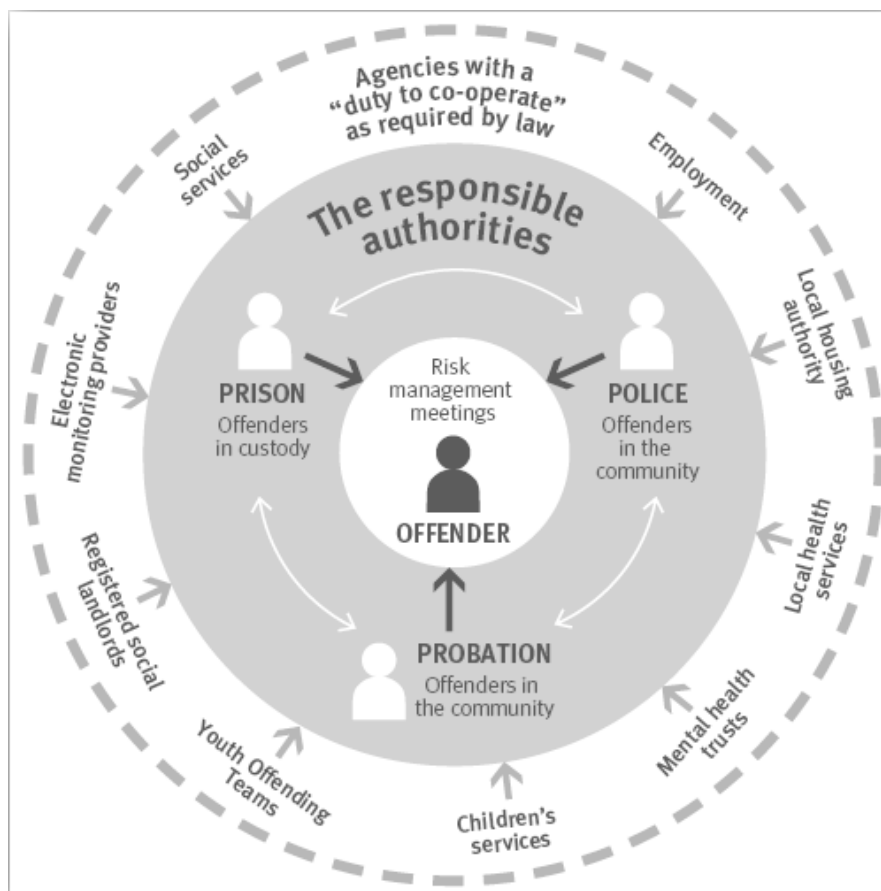
The three **risk management levels** are as follows:

Level 1 – Ordinary agency management - level used in cases where the risks posed by the offender can be managed by the agency responsible for supervision/case management of the offender. This does not mean that other agencies will not be involved; only that it is not considered necessary to refer the case to a level 2 or 3 MAPPA meeting.

Level 2 – Multi-agency public protection meetings - used where the active involvement of more than one agency is required but where the complexity is not so great as to require a referral to Level 3.

Level 3 – Multi-agency public protection meetings - should be used where it is determined that the management issues require active conferencing and senior representation from the Responsible Authority and Duty to Cooperate agencies.

Agencies with a duty to co-operate



The duty to co-operate with the Responsible Authority in respect of MAPPA may include:

- exchange of information in order to identify, assess and manage the risks an offender presents
- involvement in multi-agency risk management panels
- may involve the provision of resources or services to assist with risk management

The role of the police

MAPPA offenders and PDPs (Potentially Dangerous Persons) should be appropriately flagged on all relevant police systems. Whenever information is received by any route which indicates a possible risk of serious harm, that information should be made known to the PPU (Public Protection Unit).

It is the responsibility of all staff to contribute to the collection of information which is, or could be, relevant to protecting the public from serious harm. To ensure that you are able to fulfil your responsibility in the routine collection of public protection information, you should be familiar with:

- procedures for notifying the PPU of relevant information
- identities and other details of relevant offenders and PDPs living in and frequenting your BCU area
- methods of identifying a relevant offender or PDP from existing information systems (e.g., INI, PNC, ViSOR)
- all relevant information systems in your police force and held by partner agencies to which you have access (e.g. Child Protection Register)
- arrangements for accessing ViSOR and the information held on ViSOR

Volunteered information should be recorded and submitted on a 5x5x5 information/intelligence report as appropriate.

If you are tasked to provide public protection information about a particular offender or PDP you should, where possible, be familiar with the following information about them:

- identity and address (including place of work)
- appearance (where possible using a photograph)

- nature of their offences or suspected offences
- nature and identities of associates
- nature of the danger of serious harm which they pose and any particular individuals or groups who are at risk
- any changes in behaviour or appearance
- experience mental ill health
- any substance misuse issues
- any particularly relevant risk factor or other information from the risk assessment or risk management process
- any restrictions or requirements in relation to civil orders, bail or licence conditions
- any particular factors affecting staff safety (e.g. the offender's or PDP's access to firearms)

Information collected from a tasking should be recorded by completing a 5x5x5 information/intelligence report as appropriate.

Civil orders

- Sexual Offences Prevention Order (SOPO)
- Foreign Travel Order (FTO)
- Risk of Sexual Harm Order (RSHO)
- Notification Order
- Community Order with a Drug Rehabilitation Order
- Disqualification Order
- Hospital and Guardianship Orders
- Violent Offender Orders (VOOs)

Disclosure

When sharing information that relates to individuals, you must take account of the legal requirements of the Data Protection Act 1998 and the Human Rights Act 1998, incorporating the principles of the European Convention on Human Rights. The sharing of information protocol also takes account of the common law duty of confidence. Information sharing should be carried out in accordance with the following principles:

- there must be a lawful authority to do so
- it must be necessary
- it must be proportionate
- it must be conducted in ways which ensure the safety and security of the information shared
- all participating agencies will be accountable for the management and security of the information they hold

Investigating Child Abuse - Safeguarding Children Module 1 - Introduction to Safeguarding Children (LPG1_3_26Mod1) v1.00

Section 1 – National drivers for investigating child abuse

It is necessary to emphasise the importance of effective investigation of child abuse from the outset. Recent high profile and well documented cases inform us that multi-agency involvement in child abuse cases still requires refinement. High profile cases have led to national inquiries and agency wide recommendations being put into place. Within these notes, these cases and the subsequent inquiries, inspections and reports will be referred to.

The Children Act 1989: Is based upon the belief that children are generally best looked after within the family, with both parents playing a full part and without resorting to legal proceedings. The Act emphasises the importance of putting the child first.

Working Together to Safeguard Children (1999): Produced by the Home Office, The Department of Health and Department for Education and Employment, 'Working Together...' sets out how all agencies and professionals should work together to promote children's welfare and protect them from abuse and neglect.

What to do if you're Worried a Child is Being Abused (2003): This practice guidance was developed to assist practitioners to work together to promote children's welfare and safeguard them from harm. Aimed at those whose work brought them into contact with children and families, but particularly those who

worked in social care, health, education and the criminal justice system, it outlined key actions to be taken if a practitioner had concerns about a child.

The Victoria Climbié Inquiry – Lord Laming (2003): Eight year old Victoria Climbié died on 25 February 2000 after months of sustained abuse at the hands of her carer and Great Aunt, Marie-Therese Kouao and her partner Carl John Manning. Following Victoria's death, the Home Office and the Department of Health invited Lord Laming to chair an independent statutory review of the circumstances surrounding her murder and to make recommendations to prevent, as far as possible, similar cases arising in the future.

'Keeping Safe, Staying Safe' - HMIC Thematic Inspection Report (2005): Her Majesty's Inspector of Constabulary (HMIC), are tasked with measuring force performance against standard protocols. They have wide ranging powers and have reported back on their findings into an inspection which looked at the way in which the police service investigates child abuse.

The Soham Murders Inquiry – Bichard (2004): The Bichard Inquiry was set up following the conviction of Ian Huntley for the murders of Holly Wells and Jessica Chapman in Soham, Cambridgeshire in 2002. The Bichard Inquiry Report draws conclusions on these matters and makes recommendations surrounding the recording, use, and dissemination of intelligence within the police service and their inter-agency partners (e.g. police and social services).

'Every Child Matters' (2003): The Government's policy response to the findings and recommendations of Lord Laming's Inquiry.

The Children Act 2004: Brought about to provide the legislative support to promote inter-agency working under joint agreements and supervision.

Section 2 - Definition and types of Abuse.

The Child Abuse Investigation Unit (CAIU), social services, healthcare professionals and other involved agencies classify abuse according to four distinct categorizations:

- Physical: This type of abuse may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child.
- Emotional: Is the ill-treatment of a child which causes severe and persistent adverse effects on the child's emotional development. It may involve conveying to a child that they are worthless or unloved, inadequate, or valued only insofar as they meet the needs of another person.
- Sexual: Involves forcing or enticing a child to take part in sexual activities whether or not the child is aware of what is happening.
- Neglect: This form of abuse is the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development. Neglect may be committed by a parent or other person legally liable to care for a child (including the legal guardian).

Two of the terms commonly used within child abuse are a 'child in need' and a child suffering 'significant harm'.

Child in need: First responders may encounter circumstances where significant harm or the likelihood of significant harm is not apparent. In these situations the child still may have suffered some 'harm' as prescribed by one of the four categories of abuse and as such the child could therefore be classed as being 'in need' (Section 17 (10) Children Act 1989 provides a different definition of when a child is 'in need'). A child who has been identified as 'in need' in these circumstances would need to be flagged up by the agencies as a child who might require closer monitoring, or their circumstances require closer attention, although intervention to any great depth is neither required nor planned.

However, should a first responder be met by a child who they believe fits this particular profile, then details of that child should still be sent as a notification to the CAIU. The child should then be referred to social services by the CAIU so that the local authority can take appropriate action under Section 17 of the Children's Act 1989 to safeguard the child.

Significant Harm:

As previously stated a child can be harmed through any of the four categories of abuse: Physical, Emotional, Sexual and Neglect.

The Thresholds for Intervention

The dilemma that faces most first responders to a report of child abuse is whether to intervene or not. The principles of 'lawful chastisement' and 'reasonable punishment' have been used often in defence of what appears to have been some form of sanction against a child.

Section 58 of the Children Act 2004 outlines the restrictions on the defence of reasonable punishment commonly known as lawful chastisement for those who have parental responsibility for a child. Before the Act came into effect anyone with such parental responsibility who slapped a child (and presumably caused injury) in their charge could raise the defence of lawful chastisement. However, from 15th January 2005 (the date Section 58 came into force) the defence can only be raised for an offence of **common assault** on a child. If the parent/carer inflicts any greater injury and causes, for example, actual bodily harm (Contrary to Section 47 Offences Against the Person Act 1861), then the defence of lawful chastisement will no longer apply.

The NSPCC Survey - Maltreatment in the United Kingdom

In 2000, the NSPCC sponsored a survey of the childhood experiences of 2,869 18-24 year olds. The report found that more than nine out of ten of these young people had a warm and loving family background, but a significant small number of those who took part in the survey suffered serious abuse or neglect at home:

- seven per cent suffered serious physical abuse as children at the hands of parents and carers, including being hit with a fist or implement, beaten up, burned and scalded
- six per cent suffered serious physical neglect at home, including being left regularly without food as a young child, not being looked after or taken to the doctor when ill or being left to fend for themselves because parents were absent or had drug or alcohol problems

- five per cent had been placed at risk by being left alone at home overnight or out overnight - whereabouts unknown - at young ages
- six per cent had suffered multiple attacks on their emotional wellbeing and self-confidence, including living with frequent violence between parents, being 'really afraid' of parents, being regularly humiliated, being threatened with being sent away or thrown out, or told that their parents wished them dead or never born
- one per cent had been sexually abused by a parent or carer and three per cent suffered sexual abuse by another relative, ranging from penetrative or oral sex to taking pornographic photographs of them
- the survey reveals that, while child abuse is predominantly a family affair, large numbers of children suffer bullying, discrimination and violence from people they know outside the family. The perpetrators are usually other children and young people
- around one in twelve of the respondents had suffered regular bullying and discrimination over the years and more than four in ten had experienced it at some point. And one in ten – mostly girls - had been forced or threatened into sex acts against their will by people known to them, under the age of 16

Self-help groups

For example, Victim Support Line, Survivors, NSPCC website and The Samaritans.

Section 3 - Child abuse and crime, parental responsibility and the Common Assessment Framework (CAF)

The relationship between child abuse and the investigation of crime

Listed below are common types of incidents, a number of which may not at first sight be reported as child abuse, but when investigated may have an underlying theme of abuse.

- **abuse, bullying or offending by children:** Children, who are reported to be bullying others or offending in other ways, for example abusing drugs or alcohol, should be recognised as possible victims of child abuse themselves

- **animal abuse:** If a child is cruel to animals, it may indicate that they themselves have been subjected to child abuse
- **children involved in prostitution or sexual exploitation:** Children involved in prostitution and other forms of commercial exploitation should be seen primarily as the victims of abuse
- **children who go missing:** Child abuse may be indicated when a child is reported missing or when a family or child misses significant appointments, e.g. with health care professionals
- **child abduction (including parental abduction):** It is a criminal offence under the Child Abduction Act 1984 for a person connected with a child under the age of 16 to take or send that child out of the UK without the appropriate consent
- **child homicide:** The investigation of homicide is specialised and forces will have local policies. The CAIU should either investigate child homicides or their advice should be sought by the senior investigating officer (SIO) for the investigation
- **domestic violence:** There are clear links between domestic violence and child abuse. Where one is present the other is likely to exist also. Prolonged or regular exposure to domestic violence can therefore have a serious impact on a child's development and emotional well-being, despite the best efforts of the victim's parent to protect the child
- **drug and alcohol misuse:** It is important not to generalise, or make assumptions about the impact on a child of parental drug and alcohol misuse. Many of those who misuse drugs and/or alcohol still make capable parents. It is, however, important that the implications for the child in these circumstances are properly assessed
- **fabricated or induced illness:** The phenomenon of parents and carers inflicting harm upon children in their care by fabricating or inducing illness, and subsequently bringing this to the attention of medical practitioners for unnecessary investigation and treatment, is well documented
- **female genital mutilation:** Is the term used to refer to the removal of part or all of the female genitalia for cultural or other non-therapeutic reasons. Where a child appears to be in immediate danger of mutilation and the parent or carer cannot satisfactorily guarantee that they will not

proceed with it, officers should consider the use of police protection powers. Refer to the Female Genitalia Mutilation Act 2003 for more information

- **forced marriage:** Is a marriage conducted without the full and free consent of both parties. In forced marriages, family members or spouses may perpetrate abuse, either by forcing the victim into the marriage or by abusing them after the marriage. The abuse may be committed by any family member (male or female) and may or may not include the other party to the forced marriage
- **grooming:** Is the process of reducing the resistance of a child to abuse. Parents or carers may also be subject to grooming
- **historic child abuse allegations:** Allegations of child abuse are sometimes made by adults and children a long time after the abuse has occurred
- **institutional abuse and abuse of children living away from home:** Media attention surrounding the abuse and neglect of children living away from home has raised public awareness of the particular vulnerability of children in a residential setting
- **organised, complex or multiple abuse:** Occurs as part of a network of abuse across a family or community and within residential homes or schools
- **racial harassment:** Children from all cultures are subject to abuse and neglect. All children have a right to grow up safe from harm. However, black and minority ethnic groups (and their parents) are also likely to have experienced harassment, racial discrimination and institutional racism
- **rape, sexual activity and pregnancy of a child:** Allegations of sexual activity involving a child should be investigated as potential child abuse even when the child claims to be consenting. The pregnancy of a child under 16 years of age could provide evidence in a criminal investigation
- **sexual abuse tourism:** Some sex offenders will travel abroad to abuse children. In some cases abusers may take children with them, prearrange access to victims, or travel to locations where they will have ready access to children who are exploited through the sex industry

- **sudden and unexpected death of an infant (SUDI):** Most infant deaths occur through natural causes, but all SUDIs should be investigated in accordance with the ACPO (2002) 'Guidelines on Infant Death' and relevant local or national multi-agency protocols
- **trafficking:** People trafficking is the practice of transporting people into, out of, or within the UK in order to exploit them using deception, intimidation or coercion

Child abuse incidents which may not amount to a criminal offence

The situations below deal with circumstances that would not constitute an offence but still represent child abuse. In these cases action should be taken.

There are only two circumstances where this applies. They are:

- poor or inadequate parenting, where a wilful act or omission is not evident, for example, where a parent's lack of knowledge in how to be a good parent is the cause of neglect and not a deliberate act
- instances of common assault which fall within the statutory defence of 'reasonable punishment'/'lawful chastisement' (Section 58 Children Act 2004)

In either of these cases, officers attending the scene should consider the age, health and welfare of the child, and even though offences might not have been committed, there is still a duty on the police to notify their agency partners.

'Parental responsibility'

In any case of child abuse, whether outwardly reported as such, or discovered through other means, the investigator will be faced with having to deal with those who purport to be in charge of that child. They may be the parent, the legal guardian, or someone who may just have temporary charge of that child.

Parental responsibility under **Section 3 of the Children Act 1989** includes all rights, duties, powers, responsibilities and authority which by law a parent has in relation to their child and his or her property. Examples of parental responsibility can be held by the following:

- natural mother
- natural father, if married to the natural mother at the time of the birth, or if he subsequently marries the mother
- natural father if he has a written agreement with the mother
- a person having parental responsibility through a court order
- an unmarried father if he acts with the mother to have his name recorded on the child's birth registration certificate (only in the case of children born after 1st December 2003)
- the local authority who acquires parental responsibility by virtue of an emergency protection order or a care order

Note: Police protection does not give the police parental responsibility.

The role of the Common Assessment Framework (CAF) within child abuse investigations

The Children Act 2004 places a duty upon all the authorities entrusted with the care of children to promote co-operation and work together to safeguard children. The focus is on early intervention.

The CAF has been designed so that, with appropriate training, practitioners from any discipline will be able to undertake a holistic assessment of a child's needs. It will help them determine the level of need and identify an appropriate response.

Although police officers are not expected to undertake the full assessment of a child and/or their surroundings, knowledge of the requirements within the CAF will assist in the sharing of information between agencies and ensure that early notification of potential child abuse issues are made.

Additional information

- The Assessment Framework
- Dimension of a child's developmental needs
- Dimensions of parenting capacity
- Dimension of family and environmental factors
- References (websites and books)

Investigating Child Abuse - Safeguarding Children Module 2 - The Role of the Call Handler (LPG1_3_26Mod2) v1.00

The call handler is a vital component in the investigative process. The information that they have access to, and the way in which they deal with, it can be the difference between life and death for a child. Suspected or actual child abuse can come to police attention from a number of sources. These could include:

- victims
- witnesses
- health services
- social services
- education professionals
- anonymous reporters
- Police officers (through routine contact with the public)

Information gathering for the call taker: The ACPO Guidance on Investigating Child Abuse and Safeguarding Children (2005) gives guidance as to the minimum information that should be obtained on first report of a suspected abuse case.

Providing safety advice: Many calls to the police to report cases of abuse are made by people who themselves are vulnerable to the abuser. The caller may have limited time in which to speak, or be in a vulnerable position when making the call. The ACPO Guidance also provides guidance on this issue:

If the suspect has left the scene:

- advise the caller to lock and secure their premises and return to the telephone (where relevant, a full description of the suspect should be taken and circulated to officers in the area)

Once the initial safety of the caller has been established:

- keep the caller on the line (any background noise from an emergency call or other tape recorded calls to communications centres could be used as evidence as well as allowing monitoring of the incident)
- where the caller is a child, only ask sufficient questions to gain essential information for the deployment of officers

As soon as the call taker has established that the victim is safe, they should give the caller basic advice about preserving the crime scene until the police arrive. This will apply whether first contact is made via the telephone or verbally to the officer.

Preserving the scene: Callers should be advised:

- not to move anything (or allow others to do so)
- not to clean or tidy the house or premises where the incident took place
- not to wash or take a shower (or allow the victim to)
- not to change clothing (or allow the victim to)
- not to allow children, relatives, neighbours or animals to enter areas where the reported incident took place

Resourcing suspected child abuse incidents: Each case has to be treated on its own merits. Call takers have to think wider than the immediate police family when considering resources and Supervisors should always be on hand to assist. Courses of action to consider are:

- consider how many officers to dispatch to the scene depending upon the circumstances
- is an ambulance required
- inform the caller that officers have been dispatched
- ensure that support ('back up') is available for officer(s) if necessary
- commence IT checks and paper based systems for previous incidents etc
- inform officers attending whether or not there is a history of domestic violence or child abuse and where necessary a description of the offender
- inform the caller when the officer(s) have arrived

All resources sent to the incident, together with courses of action taken should be recorded as per local procedures within the incident log.

Resourcing incidents involving sudden or unexplained death of an infant (SUDI)

SUDIs can be reported to the police after a child dies at home or sometimes, after a child has been found unexpectedly ill at home and dies soon afterwards in hospital. Where a report is received of the SUDI, the call taker should be

aware of the effect their responses may have on a bereaved parent or carer. Call takers should undertake the following actions in addition to those outlined in the previous checklist for resource deployment:

- request urgent medical assistance if not already at hospital

In most cases the parents and/or relative will have dialled the emergency services and arranged for an ambulance to attend the scene, or one might already be present. Clarify this position. You cannot assume that the child is dead because the caller states this.

- arrange for a detective officer of at least Inspector rank to attend the scene to take charge of the investigation

A SUDI is a very serious incident, and the experience of a detective Inspector is required to ensure that all investigation processes follow standard procedures.

- if an Inspector is not immediately available, despatch officers to the scene taking into account the impact on the bereaved family

This decision will be based on local force procedures. Uniformed supervision should be dispatched in their place to ensure that the scene is properly preserved.

Investigating Child Abuse - Safeguarding Children Module 3 - Initial Response and Fast Track Actions (LPG1_3_26Mod3) v1.02

Section 1 – Duty to Protect the Child

The duty of a police officer to protect and save life is inherent within the police service; this duty extends to promoting the welfare and safeguarding of children. There is also a legal obligation on the police and the local authority to protect and safeguard children. Two pieces of legislation have relevance:

- **The Human Rights Act 1998**
- **The Children Act 1989**

Questions to ask a child on first contact:

- Officers should communicate with a child in a way that is appropriate to their age, understanding and communication preference.

- Conversations with the child should be conducted in a way that minimises distress to them, and maximises the likelihood that they will provide accurate and complete information. Where English is not the first language, consideration should be given to the use of an interpreter.
- Care should be taken as to how the child is questioned, as this might affect further investigations. Officers must ensure that speaking to the child is confined to establishing the child's safety, asking for the minimum amount of information and using open questions to enable the child to give a brief account of anything that has occurred (e.g. identify any offences, suspect(s) and scene and any information to preserve evidence).
- Officers should be careful not to engage the child in an 'interview' as the rules on interviews with children are quite specific, and failure to abide by the rules may affect future prosecutions.

Note: There is no legal requirement for a parent or other adult to be present, or to give consent for an officer to talk to a child in order to establish their welfare. Officers should not confuse the duty to talk to a child to establish what has happened to them, with the PACE provisions that require that child suspects should only be spoken to in the presence of a parent, guardian or appropriate adult.

Observation and communication

Officers should use observation to determine the physical and emotional condition of the child. The nature of the observation and child's condition should be recorded for the purposes of any future investigation, child protection proceedings or other notifications of concern for a child. However, communication is the key to effective investigation and professional crime management. Throughout your initial assessment of any child you will be engaged in communication, asking questions, establishing facts and giving advice and assistance if necessary. It is therefore vital that you are able to set up a clear communication channel between you and the child.

Children with disabilities are more vulnerable to abuse and may need greater protection for a number of reasons. They are often dependent on others for eating, dressing, toileting and getting around. Although the great majority of

carers have the child's best interests at heart, some will use their vulnerability as an opportunity to abuse.

Use of interpreters

In preference to using a child or family member, officers should consider using a telephone interpreting service. The use of such a service should be limited to preliminary enquiries. Similar considerations apply when communicating with children who have a disability that renders communication difficult (e.g. hard of hearing, a child with learning disabilities).

Cases where the adult present is suspected of causing the abuse

In cases where the officer suspects that an adult present has had some involvement in abuse, a request should be made to speak to the child separately. This may cause confrontation so officers must therefore show resolve in this situation and ensure that the child is given the protection of a barrier between them and the suspected offender. If the adult is removed, or refused entry into the conversation, the fact should be recorded, together with the reasons why, within the officer's notebook.

Recording the meeting with the child

Officers should record the following:

- Child's name, sex and date of birth.
- Name of the person(s) with parental responsibility and primary carer(s).
- Who was present when the child was spoken to?
- Questions asked of the child.
- Child's responses.
- Description of the child's physical appearance including injuries, clothing and state of cleanliness.
- Any action the officer took to observe the child's physical condition while noting that the examination prevented full observation of the child's body and therefore any injury subsequently discovered but not accounted for in the officer's record can be explained.
- Description of the child's demeanour.
- Description of the child's surroundings, including the condition of the home.

Working with diversity

Child abuse cuts across the full strata of culture, background and upbringing. Lord Laming highlighted such failings in the Victoria Climbié case where many of the people in authority involved in her care, associated her maltreatment to cultural upbringing. Marks on her body, the fact that she was made to 'stand to attention' whilst speaking to her carers, were all wrongly attributed to her African-Caribbean background and upbringing. He makes his viewpoint quite clear on this matter when he says:

“There can be no excuse or justification for failing to take adequate steps to protect a vulnerable child, simply because that child's cultural background would make the necessary action somehow inappropriate. This is not an area in which there is much scope for political correctness.”

Officers should therefore put the interests of the child to the forefront where child abuse is suspected and refrain from acting differently than they would normally, for fear of being labelled 'over zealous' or a 'racist'.

Action is a must – safeguarding the child's welfare

Where an officer has assessed that a child has been harmed or is at risk of harm, they should decide how to place the child out of danger.

In some cases it may be sufficient to secure a child's immediate safety by a parent or carer taking action to remove an alleged perpetrator or by the alleged perpetrator agreeing to leave the home. Where necessary, officers should use powers of arrest and police protection powers (see above).

Note: There is no power to remove a child or to enforce other arrangements where the child is not considered to be at risk of significant harm.

The powers of entry available to enable the Police to establish the well-being of the child

Officers investigating allegations will on occasions not be invited to enter a house, and it may be necessary to return to their statutory powers of entry.

The exercise of powers of entry in order to protect children and respond to suspicions of child abuse should generally be considered 'proportionate and necessary' within the Human Rights Act 1998. Officers should record in their pocket notebook their reasons for taking action, e.g. explaining why they considered the exercise of powers of entry to be legal, necessary and proportionate.

Powers of entry can be classed into two powers; those which require the support of a warrant issued by a magistrate (see below) and those provided to investigators by law.

Section 17 Police and Criminal Evidence Act 1984

Only selected parts of the Act that are relevant have been stated. These are for the purpose of:

- Arresting a person for an indictable offence.
- Arresting a person under Section 4 Public Order Act 1986 (fear of provocation of violence).
- Saving life and limb or preventing serious damage to property.

Common Law

Under Common Law a constable has the power to enter premises to prevent or deal with a Breach of the Peace and the power to remain on the premises until there is no likelihood of the breach of the peace reoccurring. This is a useful power, especially when the abuse is physical and ongoing or suspected to be ongoing.

Power of entry with a warrant - Section 48 Children Act 1989

Section 48 of the Children Act 1989 provides that when an Emergency Protection Order (EPO) has been issued regarding a child, the court may, on application, issue a warrant authorising any constable to assist the applicant in entering premises specified by the order and search for the child with respect to whom the order is made.

Section 2 - Police Protection and Fast Track Actions

One of the first actions the officer might want to take would be to take the child into police protection.

Police protection is an emergency power which enables any police officer to protect a child who is believed to be at risk of significant harm. The police may only keep a child in police protection for a maximum of 72 hours.

Lord Laming was quite specific in his recommendations about the use of 'police protection' in the case of a suspected child abuse. He stated:

"Save in exceptional circumstances, no child is to be taken into police protection until he or she has been seen and an assessment of his or her circumstances has been undertaken."

Note: Officers do not have to be in uniform to exercise this power. PCSO's do not currently have this power.

Once a child has been placed into 'police protection' there are two specific roles immediately enabled. They are the roles of the 'Initiating Officer' and 'Designated Officer'. Home Office Circular 017/2008 renames the investigating officer role to 'Initiating Officer' when using powers to take a child into police protection. Another officer may subsequently need to continue as Investigating Officer to complete a full investigation of an incident or Child Protection referral.

The action to be taken in more serious cases of suspected child abuse

All allegations of child abuse are potentially serious, but cases should be identified as particularly serious when an allegation involves:

- Serious physical injury.
- Near death of a child due to physical abuse.
- Serious sexual offence.
- Serious or chronic neglect.

Note: The judgement as to what is **serious** should include consideration of the child's age and if they experience mental ill health or have a physical impairment.

Any officer identifying an urgent or serious case should inform their supervisor of the details without delay. If there is any doubt, the officer should request the attendance of a supervisor to the scene.

Action to be taken in the case of a Sudden Unexpected Death of an Infant (SUDI)

Attendance by the police to such an incident is not only disturbing for the bereaved family, who immediately feel under suspicion, but also for the officer concerned, as they have to investigate the death as they would do with any other suspicious death.

The initial action to be taken, and the resources to be allocated to a SUDI has already been covered in Module 2 - Section 1 – The Role of the Call Handler.

Attending officers should take into account the fact that the bereaved parents or carers are likely to be in a state of shock and possibly confused. However, they should also bear in mind that the infant could have died as a result of maltreatment and as such officers should note the response of the parents/carers to the child's death, e.g. remoteness, indifference to the death or disposal of articles. In any such case of unexplained or unexpected death, the officer's actions are quite clear. The death must be treated as 'suspicious' unless proven otherwise (i.e. – medical practitioner issuing a death certificate), so a professional, yet sensitive approach is required.

What if I am the first to arrive at the scene?

Should the first responder be alerted to the scene of a potential SUDI by a member of the public whilst on patrol, or they are the first to arrive at the scene, they should consider administering first aid and request urgent medical assistance. The necessity to save life far outweighs the potential danger of destroying evidence by administering first aid to a child who may still be alive.

However, if the child has been certified dead by attending medical practitioners (ambulance or doctor) you should:

- Ensure that a supervisor is informed and that a detective officer of at least Inspector rank attends the scene to take charge of the investigation.

- Record information about emergency services that have attended the scene and details of any conversations that took place.
- Record details of the child's condition, e.g. position, any vomit, blood from the nose or mouth, colour, tone, consciousness, any signs of movement or breathing.
- Record the surrounding circumstances of the discovery of the child, e.g. who was present when the child was found, how the child was found and who alerted the emergency services.
- Record the condition of the child's surroundings.
- Record the response of the parent or carer.
- Explain to the parent or carer that the police need to take actions to determine the cause of the child's death (such as asking particular questions and possibly examining some items from the house).

The Term 'Signal Crime' and its Relevance to a Child Abuse Investigation

Neighbourhood policing (NHP) has been described as delivering control in response to public priorities. This means a commitment to neighbourhood policing using evidence based deployment of resources and tactics. However, where a case of child abuse becomes a major public concern then it may be deemed as a 'signal crime' under the Signal Crime Perspective (SCP) definition.

A signal crime is any criminal incident that causes a change in the public's behaviour and/or beliefs about their security.

Any crime involving the abuse and/or death of a child could cause the general public to reassess their own thoughts on security for their own children, especially if reported through the national media.

Examples of nationally reported cases which would fall into the category of a signal crime are listed below. They are not referred to as a definitive list or in any order which suggests hierarchical importance.

The Jamie Bulger Murder (1993)

The Victoria Climbié Murder (2000)

The Sarah Payne Murder (2000)

The Soham Murders (2002)

Child abuse has been the centre of a number of criminal acts, which have led to national inquiries (Laming & Bichard). The effect of such cases has been

evidenced in the way child abuse is viewed by the nation as a whole and resulted in a re-assessment of the way in which the joint agencies work together to address future incidents.

Section 3 - Arrest Strategies and Scene Preservation

The Action to be Taken in Respect of Suspected Offenders

Taking positive action in cases of suspected child abuse is paramount. It cannot be over emphasised that no action is unacceptable, especially when there is evidence of child abuse taking place.

Initial action

The following is a guide of actions that should be taken by officers on arrival at the scene once the well-being of the child has been established and any necessary steps taken to preserve evidence. Although not hierarchical, the level of intervention must be guided by the level of abuse that is apparent.

- Confirm the identity of the suspect(s) (if they are no longer at the scene, circulate a full description via the radio).
- Establish who is or was at the scene.
- Request intelligence checks on the suspect and household (including the PNC, Sex Offenders Register, Violent and Sex Offenders Register [VISOR], warrants, bail conditions and civil orders and the register which identifies which children have Child Protection Plans set up for them if not already done).
- Make accurate records of everything said by all parties, including any 'significant statement' made by the suspect.
- Record the demeanour of the child, suspect and any other witness.
- Consider using a video camera to record evidence or arranging a crime scene investigator (CSI) to do so.
- Obtain an overview of what has occurred - this should take account of the established risk factors associated with child abuse.

Arrest strategies

If the initial investigation indicates an offence, the officer should consider all arrest reasons, in particular protecting a child or other vulnerable person from

that person to assess the necessity for arrest and to prevent further offences and to safeguard the victim and potential witnesses. Remember, the offence for which a person is first arrested may not be the offence for which the person is charged because it is possible that the post arrest investigation may reveal that other more serious offences have been committed.

Based on the four categories of abuse, the following could be considered (this is not an exhaustive list) :

Physical abuse

- Assault (actual bodily harm, grievous bodily harm, wounding)
- Assault and battery (common assault)

Emotional abuse

- Assault (common assault or actual bodily harm).
- Assault and battery (common assault)
- Breach of the peace

Sexual abuse

- Sexual assault (indecent assault, gross indecency, rape etc).

Neglect

- Assault (depending on the severity of the neglect and the resulting condition)

Considerations When Arresting

There are many things that should be taken into consideration when arresting a suspect, from the current location to the preservation of evidence. For full details see student notes.

How to Preserve the Scene

As with any other crime, consideration of scene preservation is vital to any subsequent investigation. Many prosecutions are lost because officers attending scenes have not been forward thinking enough to preserve vital evidence, which has since been lost or destroyed.

Crime Scene Identification

The 'crime scene' is a wider concept than just the location where the alleged offence took place. Other 'scenes' could include:

- The victim
- The suspect
- Vehicles used by the suspect.
- Other buildings used by the suspect
- Workplace (locker etc)

Once the crime scene has been identified, the preservation of evidence is vital. In cases where the victim is too young, too traumatised or unable to provide witness testimony through some other reason, forensic evidence may be the only tangible link between the suspect and the victim.

Scene protection

The first thing to consider is protecting the scene, even where there has been a time lapse between the report and the alleged offence. The depth to which the scene is protected can be dependant on the seriousness of the suspected abuse:

- Secure, preserve and take control of the scene to limit any access until sufficient information is available to make an informed assessment of the situation.
- Remove people and animals from the identified areas of activity, and where practicable from the whole area.
- The victim and the suspect should be considered as a 'primary scene' for evidence and treated as such, but you should also establish a physical 'secondary scene' parameter - (where offences could have taken place); potentially the whole premises.
- Dependent on the severity of the incident, consider erecting cordons and commencing a 'crime scene log', recording all persons entering and leaving the location.
- Consider any potential areas of contamination that could affect the integrity of evidential material (e.g. those officers who deal with the suspect should not deal with the crime scene - transference of forensic evidence).
- Request a CSI to attend. (Failure to request or refusal to attend should be logged).

- Establish a work base in a safe area of the premises (from which any work can be done without interfering with evidence).
- Ensure that the scene is photographed or recorded, where necessary, as soon as possible. (This could be done by the CSI).

At first glance the list might seem excessive, but using a 'scale down' principle, which means treating the situation as a worst case scenario and then reducing the level of actions as the case requires, scene preservation can be scaled to the right level quickly, and potential evidence secured rather than lost through ineffective scene protection.

Times in Relation to Scene Attendance

Recording attendance at the scene of child abuse as first officer is vital. It may be that this officer will be interviewed by the 'Investigating Officer' as part of any subsequent investigation. A 'crime scene log' may have to be started, but in any case, record in your pocket notebook any times that may be important, such as:

- Time when the crime was committed, if known.
- Time you were called.
- Your arrival time.
- Time of arrival and departure of any other personnel, with their full details.
- Times and details of any actions taken and by whom.
- Time you left the scene.

All these times must be recorded correctly as they may prove extremely valuable.

Supporting a Forensic Investigation

In most incidents of child abuse it is likely that at some point legitimate access to the victim and/or their home has been gained by a suspect, and that the suspect may be living with, or has lived with, the victim as a parent, carer, relative or visitor. This presents different issues from those where the suspect is unidentified or has no legitimate access to the scene. In cases where the suspect has had legitimate access, it will not usually be sufficient just to identify the suspect as being present at the scene from forensic evidence.

Areas of significant evidence that could assist the investigator and the Crime Scene Investigator to interpret the scene include:

- Blood pattern distribution.
- Fingerprints.
- Clothing and bedding.
- Footwear impressions.
- Medication and feeding habits.
- DNA.
- Signs of a disturbance or neglect.
- Injuries.
- Weapons.
- Marks.
- Fibres and hairs.
- Contamination.
- Special consideration where technology is involved in intimate and non-intimate samples.

The Victim

The victim should be treated as a crime scene. Scientific corroboration in child abuse investigations involving non-intimate and intimate samples taken from victims could be a primary source of evidence accepted by a court.

Children subject of abuse should be examined by a doctor, preferably a police doctor, who has experience in obtaining such samples. Appropriate consent should be sought by the doctor before examining the child. Officers should safeguard evidence prior to the forensic medical examination by asking the victim, their parent or their carer to prevent the victim from:

- Drinking or eating
- Washing
- Smoking
- Going to the toilet
- Removing clothing

Suspects

Remove the suspect from the scene as soon as possible. Remember that in some cases to protect evidence, their clothing and footwear may have to be seized. In some cases further contact evidence can be gained from the suspect (or a victim) by taking hair combings or by a medical examination, e.g. in an offence where an offender has worn a balaclava or in sexual offences.

Intimate and non-intimate samples may be taken from the suspect, but again guidance from supervision and/or a child abuse investigator must be sought if this course of action is planned.

Other Witnesses

The possibility of enquiries with potential witnesses and house-to-house enquiries should be identified early in the investigation. Examples include family members, neighbours, shopkeepers, visitors and friends. Where other witnesses are children, care should be taken that an appropriate adult is present whilst interviewing. Only in exceptional circumstances should a child be interviewed without their parent or carer's consent.

Additional Information

- Offences
- ACPO Good Practice Guide for Computer Based Electronic Evidence
- References
- Books/publications

Investigating Child Abuse - Safeguarding Children Module 4 - The Multi Agency Approach (LPG1_3_26Mod4) v1.00

Section 1 – The Role of the Child Abuse Investigation Unit (CAIU)

The term Child Abuse Investigation Unit (CAIU) refers to the variety of groupings of police officers and police staff whose primary function is the investigation of child abuse. Other terms used for this unit are:

- Child Protection Investigation Unit (CPIU)
- Child Protection Team (CPT)
- Child Protection Unit (CPU)
- Public Protection Unit (PPU)
- Family Support Unit (FSU)

What are the duties of the CAIU?

The Child Abuse Investigation Unit should take primary responsibility for investigating child abuse cases. At a minimum, this should include criminal investigations relating to the following offences of child abuse:

- occurring within the household (as opposed to a stranger attack)

- committed by a carer or family member against a child where the victim is under 18 years of age
- concerning children in care when the abuser is alleged to be the carer or employees of the care organisation e.g. foster carer or children's homes employee

The CAIU should also provide advice to investigators in child homicide cases or take responsibility for such investigations.

The role of the specialist child abuse investigator is paramount to any successful outcome of a child abuse investigation. They will be integral to any joint working arrangements with agency partners, lead the criminal investigation, and ensure that witnesses and victims are properly cared for in the interim.

Your involvement with the CAIU may start with the initial notification of an incident involving a suspected child abuse case.

Section 2 - The Role of the Various Agencies Involved in the Protection of Children (LPG1_3_26MOD1_QN)

Lord Laming (2003) and Sir Michael Bichard (2004) have both clearly outlined what happens when those in authority fail to carry out what is required of them or protocols to ensure co-operation does not work. Their recommendations, together with the legislative support of the Children Act 1989 and Children Act 2004, provide the framework for the future.

Agencies involved in the care and protection of children

There are clear lines drawn between those who have a statutory duty to protect children and those who provide care and protection of children on a voluntary basis.

Statutory agencies

- the police
- social services
- local authorities
- the health service

It is not an exhaustive list, but it gives you an idea of the spectrum of organisations that have a statutory responsibility towards the care and welfare of children.

Voluntary agencies

Other agencies that offer assistance and guidance are not so duty-bound, but are just as important and impactful when it comes to safeguarding children's future. They come from the voluntary sector. Some receive limited government funding; others rely purely on charitable contributions. They include:

- NSPCC – National Society for the Prevention of Cruelty to Children. This is the UK's leading charity specialising in child protection and the prevention of cruelty to children.
- NCH – who are slightly different and smaller than the NSPCC in that they almost exclusively deal with family and children's support service/care projects, treatment centres etc. all run in partnership with statutory agencies.
- Barnardo's - similar again, running support services for vulnerable children on a regional, project basis throughout the country.
- British Association for Study and Prevention of Child Abuse and Neglect (BASPCAN) - who are an institute that primarily reviews initiatives and research and provide funding for particular projects.
- Childline – the telephone helpline for children.

The difference between statutory bodies and voluntary agencies, apart from funding, is the legal requirement for the statutory agencies to work together. This requirement has been facilitated by the creation of Area Child Protection Committees (ACPCs) or their replacement under the Children Act 2004, the Local Safeguarding Children Boards (LSCBs).

Area Child Protection Committees/Local Safeguarding Children Boards

These assemblies are responsible for setting and monitoring local multi-agency policy on child protection. Each agency within a locality having responsibility for the health, welfare and protection of children should be represented at senior level on the ACPC/LSCB. For this reason, an officer of at least the rank of **superintendent** would normally hold the appropriate level of authority to represent the police on an ACPC/LSCB.

Each ACPC/LSCB is responsible for having in place a number of local protocols including the following:

- how joint enquiries should be conducted
- quick and straightforward means of resolving professional differences of view on specific case and
- details of local child protection conference procedures

The Mechanisms by which Suspected Child Abuse Cases are Investigated by the Various Agencies

There are a number of mechanisms in place to assist in the informed decision making process regarding the future welfare of the child. These normally happen in a chronological order and are:

- strategy discussions/meetings
- child protection conferences
- joint investigations/joint visits

Strategy discussions/meetings

A strategy discussion between the police, social services and other agencies should take place if there is reasonable cause to suggest that a child is suffering or is likely to suffer significant harm, or the child is in need.

During a strategy discussion a number of things should be decided, some of which are:

- agree the conduct and timing of any criminal investigation
- agree what action to take immediately and in the short-term to safeguard the child and/or provide interim services and support
- agree what to tell the family of the child
- determine if legal action is required
- co-ordinate a press strategy if relevant

Joint investigations/joint visits

Child abuse investigators will work closely with social services and other agencies by sharing relevant information relating to a child's safety or welfare. This is initiated at the referral stage (see below).

Whenever a joint investigation into possible injury or harm to a child is initiated, an officer of at least the rank of sergeant should be involved at the referral stage and in any future strategy discussion. In addition, an officer of at least the rank of inspector should have an active overview of the investigation to ensure that they are fully informed, satisfied with and accountable for the way in which the investigation is planned and conducted.

A joint visit may be initiated, where the police and social services will actually see the child and establish the child's welfare.

Such visits are appropriate in the following circumstances:

- if it is suspected that the child is a victim of crime
- whenever there is little or no information on which to assess whether a child is at risk of harm
- to assess a child's cognitive development and ability to provide an account during a video interview

Child protection conferences

Following on from the initial enquiries, a child protection conference brings together family members, the child where appropriate, and those agencies most involved with the child and family. Parent/carers can be excluded from the conference, but this is a serious step and should only be taken by the chair of the conference acting within ACPC/LSCB procedures.

The Responsibility of the Police for any Criminal Investigation in Child Abuse Cases

Lord Laming (2003) states: "The 'Working Together' arrangements must be amended to ensure the **police** carry out completely, and exclusively, any criminal investigation elements in a case of suspected injury or harm to a child, including the evidential interview with a child victim. This will remove any confusion about which agency takes the 'lead' or is responsible for certain actions." (Recommendation 99).

This is not to say that the police have sole responsibility for child victims in child abuse cases that involve a potential criminal offence. Under the Children Act 1989, local authorities have lead responsibility for the welfare of the child.

This joint approach to an investigation may lead to a decision that in a less serious case, the best interests of the child are served by a social services led assessment, rather than a full criminal investigation by the police. This would be in cases where neglect and cruelty did not constitute an offence. For example:

- poor or inadequate parenting, where a wilful act or omission is not evident, e.g. where a parent's lack of knowledge in how to be a good parent is the cause of neglect and not a deliberate act
- instances of common assault which fall within the statutory defence of 'reasonable punishment' or 'lawful chastisement', e.g. a smack that is a one-off, anything more than that is likely to be an offence of cruelty and the 'reasonable' defence would not apply

The Protocols for Information Sharing between the Various Agencies

Information stored by any public body, of which the police service is one, is governed by the Data Protection Act 1988 and consideration to the Human Rights Act 1998 should also be given.

The Measures Available Through the Courts for the Care and Protection of Children

Once the initial action has been taken to safeguard and protect the child, the medium to long-term care of that child should then be considered.

Orders for the care and protection of children

Orders are applied for and granted by the courts, some by the criminal courts as a result of a criminal case and others by the 'civil court' which deals with non-criminal family issues.

However, before we go into what orders are available, we should first look at what is termed the '**no order**' principle.

Section 1(5) Children Act 1989 states:

“Where a court is considering whether or not to make one or more orders under this Act with respect to a child, it shall not make the order or any of the orders unless it considers that doing so would be better for the child than making no order at all.”

Notwithstanding the ‘no order’ principle, it is conceivable that local authority social service departments may wish to apply to the civil court for an order to either provide them with the legal authority to carry out an assessment or have some say in the life of a child.

There are a number of orders that can enable this to be achieved. The main orders commonly referred to in child protection issues are:

- Care/Supervision Orders
- Interim Care or Supervision Order
- Emergency Protection Orders (EPOs)
- Child Assessment Order
- Recovery Order

Additional information

- Strategy discussions
- References
- Books/publications

Action at scenes of fire (LPG1_3_27) v1.00

It is the primary function of the fire and rescue service to tackle the fire and effect rescues from burning buildings and vehicles.

Fire and rescue service not in attendance

The immediate responsibility of the first officer at the scene is to assume command and pass information to your communications room.

SAD-CHALETS

	Casualties – numbers, types
	Hazards – present and potential
Survey scene	Access – best routes for emergency services
Assess incident	Location – exact
Disseminate information	Emergency – services and other agencies
	Type of incident – accurate description
	Safety – all aspects of health and safety

Rescue Attempts – always consider your own safety and all available options before attempting any rescue

Fire and rescue service in attendance

Liaise and communicate with fire and rescue service and support them where possible. Control and regulate pedestrian and vehicular traffic to maintain a safe scene. Ascertain suspected cause of fire.

Serious fires and those of doubtful origin

- Request supervision
- Request attendance of CID
- Preserve scene
- Record details of witnesses
- Record details and actions of persons acting suspiciously

Powers of Fire and rescue service at scene of fire (S.44 Fire and Rescue Services Act 2004)

May do anything reasonably believed to be necessary:

- if reasonably believes fire to have broken out or is about to break out, for the purpose of extinguishing/preventing the fire/protecting life or property
- if reasonably believe a road traffic accident has occurred, for the purpose of rescuing people/protecting them from serious harm;
- if reasonably believe an emergency of another kind has occurred, for the purpose of discharging any function conferred on the fire and rescue authority in relation to the emergency;
- for the purpose of preventing/limiting damage to property resulting from any action taken in the above circumstances.

Offences

1. For any person, without reasonable excuse, to obstruct or hinder an employee of a fire and rescue authority or employed by or in the service of the crown to extinguish fires or protect life or property in the event of fire, responding to emergency circumstances. Section 1(1) of the Emergency Workers (Obstruction) Act 2006
2. Obstructing or hindering a person assisting an emergency worker. Section 2 of the Emergency Workers (Obstruction) Act 2006.

Both Triable summarily - Powers of arrest without warrant – constable only

Other Police and PCSO powers

Police only – sections 35, 37 and 163 Road Traffic Act 1988

Police and PCSO – section 17(e) Police and Criminal Evidence Act 1984 – power of entry to save life/prevent serious damage to property

Tackling Intimidation (LPG1_3_28 v1.00

The Government is improving the care provided to victims and witnesses because this will help to improve the whole criminal justice process thus improving the quality of evidence and helping to bring more offences to justice. This in turn will increase public confidence in the criminal justice system.

Witness intimidation is an offence under Section 51 of the Criminal Justice and Public Order Act (1994) and can occur before the crime is reported, during the process of investigation or even up to 12 months after the conclusion of criminal proceedings.

“Witness intimidation may involve threats to harm someone, acts to harm them, physical and financial harm; and acts and threats against a third party (such as a relative of the witness) with the purpose of deterring the witness from reporting the crime in the first instance or deterring them from giving evidence in court.”

Home Office, 1998. Speaking up for Justice. Report of the Interdepartmental Working Group on the treatment of Vulnerable or Intimidated Witnesses in the Criminal Justice System.

Special measures can be taken to make it easier for witnesses to give evidence in court. An example of special measures is the use of screens which can be put in place to ensure the witness does not see the defendant.

Managing and supporting Intimidated Witnesses

The police, Witness Care Units (WCUs) and support organisations must work together to understand the needs of each witness so they can take appropriate action and offer effective support. Other support organisations include Victim Support and housing associations.

The Three Key Needs of an Intimidated Witness

The causes of the fear of intimidation vary as will the methods to tackle it.

Ultimately however, an intimidated witness has three key needs:

Safety – the witness needs to feel secure and protected

Information – the witness needs to be kept informed about how a case develops

Support – the witness needs to be provided with access to people and services that enable them to live as normal a life as possible when they are engaged in the criminal justice process

Categories of Intimidation

Category 1 is the life threatening intimidation

Category 2 is non-life threatening but serious intimidation

Categories 3A, 3B and 3C cover the lower levels of intimidation

Remember that there is the potential of risk escalating to a more serious level.

You should also recognise that some may be intimidated by the court process itself.

You can assess the extent to which a witness is at risk of intimidation by using a **risk assessment scoreboard**.

For further information about this subject you should refer to the **e-learning course entitled Tackling Intimidation**. This e-learning is available by accessing the Managed Learning Environment (MLE) on the National Centre for Applied Learning Technology (NCALT) website at www.ncalt.com.

The following documents are also useful reference points for information about tackling intimidation and for further general information about witnesses and victims.

Working with Intimidated Witnesses – A manual and Best Practice Guide for police and practitioners responsible for identifying and supporting intimidated witnesses.

<http://www.homeoffice.gov.uk/documents/work-with-intimidated-witnesses/>

Action dispels fear – A best practice guide for tackling witness intimidation (CJS publication).

<http://www.homeoffice.gov.uk/documents/work-with-intimidated-witnesses/>

Human Trafficking General Awareness (LPG1_3_29) v1.00

Definition of Human Trafficking

Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime to the UN Convention against Transnational Organised Crime (2000) provides a definition of human trafficking.

Types of Human Trafficking

Trafficking in human beings involves the movement of people, by deceit or force, for exploitation in different ways. The most common types of human trafficking are: sexual exploitation, labour exploitation, domestic servitude, internal trafficking and organ harvesting.

Main Offences Associated with Human Trafficking

The principal offences where people are victims of sexual exploitation will be covered by the Sexual Offences Act 2003:

- S 1 - Rape;
- S 52 - Causing or inciting prostitution for gain;
- S 53 - Controlling prostitution for gain;
- S 57 - Trafficking into the UK for sexual exploitation;
- S 58 - Trafficking within the UK for sexual exploitation;
- S 59 - Trafficking out of the UK for sexual exploitation.

The principal offences related to labour exploitation, domestic servitude and organ harvesting are covered by the Asylum and Immigration (Treatment of Claimants etc.) Act 2004:

- S 4(1) - Trafficking into the UK;
- S 4(2) - Trafficking within the UK;
- S 4(3) - Trafficking out of the UK;
- S 4(4) - For the purposes of organ harvesting and labour exploitation.

A new offence from 6th April 2010 under the Coroners and Justice Act 2009:

- S 71 – Slavery, servitude and forced or compulsory labour

It is likely that there will be other offences committed relating to forgery, counterfeiting and immigration matters.

Indicators Associated with Identifying Victims of Human Trafficking

The person:

- a) has had a number of their human rights breached; or
- b) a member of their family has been threatened or subjected to actual physical harm;
- c) has been deprived of food, water, sleep, medical care or other life necessities;
- d) has been forced to perform sexual acts against their will;
- e) has had their wages withheld or subject to excessive wage reductions that violate previously made agreements;

- f) indicates evidence of debt bondage, where the person works to pay off a debt or loan and is not paid for his or her services;
- g) is employed by someone who provides food and accommodation at such inflated prices that the person cannot escape the debt;
- h) works excessive hours;
- i) has their passport and identity documents retained by another, so that the person cannot leave or prove his/her identity and status;
- j) is subject of an irregular immigration status and is threatened with denunciation to the authorities;
- k) has restricted freedom of movement.

Immediate key points for first responders

1. Ensure that victims of trafficking are safe and that any immediate medical needs are met.
2. Contact and inform supervisor of situation.
3. Notify a senior detective officer to determine the appropriate response.
4. Notify UK Human Trafficking Centre (UKHTC) as soon as possible - they are available 24/7 and will arrange suitable accommodation for victims.
5. If child or young person is involved notify local authority children's social care service and police Child Abuse Investigation Unit (CAIU).
6. Complete National Referral Mechanism Forms and submit to UKHTC.
7. Submit 5 x 5 x 5 intelligence report to UKHTC.

Initial response to sexual crime (LPG1_3_30) v1.02

Any sexual offence may have a massive impact on a victim. The most serious sexual offences in law are rape and assault by penetration. Please see **LPG1.1.14 Rape and Assault by penetration**. (Note: Further offences are subsequently covered by LPG2.1.03 Further Sexual Offences).

The 3 phases of rape trauma syndrome

1. the acute phase
2. the adjustment phase
3. the integration or resolution phase

Briefing Note of First Response to Rape

Your role - As first response officer, your role is central to making the victim feel safe and starting the investigative process. In most rape cases the victim will be able to name the suspect, and in these circumstances efforts should be coordinated to trace the suspect and make an early arrest.

In responding to a report of a rape you should:

- Obtain the initial disclosure verbatim, if possible (e.g. from a 999 call)
- Take an early evidence kit (EEK) with you
- Establish contact with an investigating officer (IO) who is able to provide real-time advice and supervision

Fast-track actions on arrival at the scene - Each case will present different priorities. You will need to make an early assessment of the case to determine the action to take:

- Ensure the victim's welfare and medical needs are met
- Take a first account from the victim
- Assess the scenes (including the victim, location(s) and suspect)
- Preserve forensic evidence from the victim using an EEK
- Identify any witnesses or methods of tracing witnesses, e.g. CCTV coverage of scenes or area including exit or access routes
- Keep accurate records of anyone whom the victim has told about the offence, any vehicles used to transport the victim, words spoken and the demeanour of the victim.

Victim welfare and forensic medical examination - At the scene you will be faced by the conflicting demands of meeting the needs of the victim and taking steps to preserve evidence. Your main concern is to ensure that urgent medical and welfare requirements of the victim are addressed.

Unless the victim requires urgent medical attention, a forensic medical examination should be arranged by a Specially Trained Officer (STO) or force control room. If you have to arrange the examination, do so as soon as possible and minimise moving the victim prior to this.

If the victim wishes to be accompanied by a friend or supporter during the examination, consider any risks of cross-contamination, including evidential risks, e.g. whether the supporter is also a witness. Use seat covers when transporting the victim by car.

If the victim has been taken to an A&E department, explain to medical staff that you require evidence to be preserved, e.g. removing and bagging clothes and effects separately. Seek advice from an STO.

If the victim refuses a forensic medical examination, you should provide them with referral information, and advise them to seek medical care as soon as possible, e.g. to reduce risks of contracting sexually transmitted infections.

Referral information should include:

- Location and availability of services such as Sexual Assault Referral Centres (SARCs), which often provide forensic medical examinations, medical aftercare, victim support and counselling
- Availability of specialist sexual violence services (e.g. Rape Crisis Centres) and Independent Sexual Violence Advisors (ISVAs), who take referrals from the police (and other agencies) and provide support to the victim during ongoing contact with agencies.

Taking a first account - The first account may contain important information which is lost or forgotten later. For these reasons, it may be admissible in court as hearsay evidence of the truth of the content of the victim's account to show consistency or inconsistency. Your record should be as accurate as possible. Give the victim as much privacy as you can to provide the first account and make an assessment of whether the victim is likely to require special measures and other further assistance.

Taking a first account from the victim should be limited to asking about these issues:

- Need for medical assistance
- Identity, location and description of the suspect (if known)
- Time of the offence in order to prioritise action
- Location of the crime scene(s)
- Exact nature of the offence(s) to identify forensic opportunities for using

EEKs and informing the forensic physician

- Activities since the offence took place which may affect forensic opportunities, e.g. washing, drinking
- Identity and contact details of any other person(s) informed of the offence by the victim
- Identity and existence of any witness(es) to the offence or to events immediately prior to or after the offence.

Recording evidence of early complaint - Evidence of early complaint might be the original telephone call to the police or somebody the victim has confided in. If they are at the scene obtain and record:

- The circumstances in which the disclosure took place (including location and method, e.g. in person, by telephone or text)
- Victim's exact words to the witness
- Other witnesses to the early complaint
- The victim's demeanour at the time of the disclosure.

Preserving forensic evidence - Victims of rape may give little information about the nature of the offence(s) and might be embarrassed, ashamed or unable to articulate exact details. This can make it difficult for you to assess which parts of the EEK to use and advise the victim. Alternatively, the victim may ask you for advice because they want to wash, change clothes, use the toilet etc.

- Try to establish some basic information about the offence(s) without asking leading questions
- Give them an estimate of how long it will be before the forensic medical examination
- If in doubt, use all modules of the EEK
- Give advice which balances the victim's needs and wishes with the requirement to preserve evidential opportunities

Actions and advice for victims to preserve forensic evidence

Nature of complaint	Actions to preserve evidence
<p>The victim was given alcohol or drugs or was voluntarily intoxicated.</p>	<p>Urine samples should be obtained. The victim should be provided with a urine collection vessel from the EEK or another clean receptacle such as a cup if an EEK is not available. In these circumstances the sample should be put into the correct container as soon as possible, the time recorded and the action logged. You should not witness urination. If there is a delay before the medical examination, request a second urine sample approximately one hour after the first and record the time it was taken.</p>
<p>Oral intercourse occurred.</p>	<p>The victim should not drink, eat, clean their teeth or smoke and a mouth swab or rinse should be taken. This could be taken by you using an EEK. If an EEK is not available a toothbrush can be used and retained and water can be used as a rinse (this should be retained in a clean cup).</p>
<p>Penetrative intercourse (vaginal and/or anal) or external ejaculation occurred close to the genitalia.</p>	<p>Using the toilet should be delayed (except in cases where the victim has had alcohol or drugs). In all other circumstances if the toilet is used to urinate or defecate, tissue paper used should be retained, as should any sanitary dressings. If anal rape is suspected, any stool sample should be retained in a clean receptacle. The victim should not wash or bathe, wherever possible.</p>
<p>The victim was kissed, licked and/or bitten on a skin surface or held/gripped in a particular area (skin or</p>	<p>The victim should not wash, bath, brush their hair, remove jewellery or change clothing so as to preserve the area. Any clothing removed prior to officer contact should be recovered. If clothing is removed post officer contact, the victim should stand on an</p>

Nature of complaint	Actions to preserve evidence
clothing).	appropriately sized piece of paper and the paper recovered and packaged accordingly. The area should be examined by a forensic practitioner in relation to recovering cellular material, and for any injuries.
The victim was forced to masturbate the offender.	Hand or jewellery swabs should be taken by you and any jewellery, such as rings and bracelets, should be recovered, if possible.
Items were discarded at the scene, e.g. tissues used to wipe body, changed clothing, items relating to offender, e.g. brought to scene and/or used at scene.	Such items should be recovered and appropriately packaged. Lost items should also be recorded as they could have been lost at the scene or be with a potential offender.

Protecting the crime scene - Identify, secure and protect all scenes, including the victim, location(s) and suspect (if known/present). Consider:

- Any access and exit routes used by the victim and suspect(s) including victim release sites
- Any possible hiding places, dumping sites and vehicles used for transporting the victim or leaving the scene
- Avoiding cross-contamination of evidence. If the suspect is known/present or a further scene(s) is identified, a different officer will be deployed to deal with this

Arresting the suspect - Often the victim will know and identify the suspect.

Where you have sufficient evidence to arrest a suspect, and the suspect is present, you should do so as soon as possible. Usually different officers should be deployed to the suspect and the victim to prevent cross-contamination of evidence. This is particularly important in recently committed offences where forensic evidence and an early account can be obtained from the suspect and checked against other material such as CCTV images, financial transactions etc.

Building the investigation log - You should start an investigation log. It will be progressed by the STO and the IO and is a record of:

- Initial account of the victim and witnesses
- Offender details and/or description
- Sketch plan of scene
- Action you have taken
- Log of use of EEK and other measures taken to protect the scene
- Witnesses and details of witnesses of early complaint
- List of exhibits

Providing a single point of contact - You should remain as the first point of contact until an STO and an ISVA (or similar support service) is appointed to the case. The STO will then become the police single point of contact for the victim and witnesses.

Notification to specialist teams/departments - Ensure that the correct departments have been informed by command and control of any report of rape. This will usually mean informing the duty officer and/or a specialist investigator, according to your local arrangements. The IO will appoint an STO to the case and should also make a referral to an ISVA (or similar local equivalent service).

Crime recording - A victim-centred approach to crime recording should be adopted when crime recording rape. Delays in crime recording, beyond the initial investigation, should be an exception rather than the rule.

This (briefing) document is linked to *ACPO/CPS (2009) Guidance on Investigating and Prosecuting Rape; ACPO (2009) Briefing Note on Initial Contact in Rape Cases and ACPO (2009) National Sources of Operational Support and Intelligence for Rape Investigations*. It was created by the Specialist Operations Centre, National Policing Improvement Agency.

Arrest and Detention (LPG1_4_01) v1.02

There are three ways in which a person may be brought before a criminal court:

- by summons
- by arrest on warrant
- by arrest without a warrant

Common Law: is the oldest form of law. The common law power that you will deal with on a more regular basis relates to 'breaches of the peace'.

Statute Law: a power of arrest, which is given in an Act of Parliament, is called a statutory power of arrest. The Police and Criminal Evidence (PACE) Act 1984 provides both the police and any other person the power to arrest. These powers fall into two groups:

Police only powers of arrest without warrant – Section 24 PACE 1984

The lawful arrest of a person PACE requires two elements:

- a person's involvement or suspected involvement or attempted involvement in the commission of a criminal offence, and
- reasonable grounds for believing that the person's arrest is necessary.

The Act states:

(1) A constable may arrest without a warrant

- anyone who is about to commit an offence
- anyone who is in the act of committing an offence
- anyone whom he has reasonable grounds for suspecting to be about to commit an offence
- anyone whom he has reasonable grounds for suspecting to be committing an offence

(2) If a constable has reasonable grounds for suspecting that an offence has been committed, he may arrest without a warrant, anyone whom he has reasonable grounds to suspect of being guilty of it.

(3) If an offence has been committed, a constable may arrest without a warrant

- anyone who is guilty of the offence
- anyone whom he has reasonable grounds for suspecting to be guilty of it

However, the power of arrest at 1, 2 or 3 above, is only exercisable if the constable has reasonable grounds for believing that it is necessary to arrest the person because one or more of the reasons supporting the need for arrest is satisfied (see below).

Reasonable grounds for suspecting

Reasonable grounds for believing

The reasons-Section 24(5) (a) to (f) PACE 1984

- (a) to enable the name of the person in question to be ascertained (in the case where the constable does not know, and cannot readily ascertain the person's name, or has reasonable grounds for doubting whether a name given by the person as their name is their real name)
- (b) correspondingly as regards to ascertaining the person's address
- (c) to prevent the person in question:
 - i. causing physical injury to himself or any other person
 - ii. suffering physical injury
 - iii. causing loss of or damage to property
 - iv. committing an offence against public decency (applies only where members of the public going about their normal business cannot reasonably be expected to avoid the person in question), or
 - v. causing an unlawful obstruction of the highway
- (d) to protect a child or other vulnerable person from the person in question
- (e) to allow the prompt and effective investigation of the offence or of the conduct of the person in question
- (f) to prevent any prosecution for the offence from being hindered by the disappearance of the person in question

In applying the above criteria the arresting officer has to be satisfied that at least one of the reasons supporting the need for arrest is satisfied. In considering the individual circumstances, the constable must take into account:

- the situation of the victim
- the nature of the offence, the circumstances of the offender and
- the needs of the investigation process

Each of the **reasons** are discussed in more detail in student notes LPG1_4_01.

Attempts

The power of arrest relates to 'any offence,' indictable offences, those triable either way and summary offences. You can attempt to commit any offence

except one which is triable summarily. There is no offence of attempting to commit a summary offence, unless specified by statute, for example drink driving or taking a conveyance.

PAW

Therefore, every effort should be made, where practicable, to deal with the matter without the need for arrest. This means that you should be able to explain that your first course of action was to try and proceed without the need to arrest by:

- **P**ersuading
- **A**dvising, and even
- **W**arning

the offender of the consequences of their actions first.

Information to be given on arrest

When a person is arrested they must be told:

- that they are under arrest
- the grounds for the arrest, i.e. the offence for which they have been arrested, and the reason(s) for the arrest being necessary

It is a requirement of PACE 1984 that the person must be given the above information promptly and in simple non-technical language so that they can understand the essential legal and factual grounds for their arrest in accordance with the Human Rights Act 1998, Schedule 1, Article 5(2).

De-arrest- Section 30(7a) and (8) of PACE 1984

A person arrested by a constable at a place other than a police station shall be released if a constable is satisfied before the person reaches a police station that there are no grounds for keeping them under arrest. The constable must record the fact that this has happened.

There are some occasions after a person has been arrested when you might release them before arriving at the police station. If the arrest reason under

which the accused person is arrested no longer applies, then the person should be released.

A record must be made of the actions, everything that was said about the offence and then the person may then be reported for summons or issued with a fixed penalty notice depending on your own force policy.

Further arrest

There will be times when you arrest a suspect for one offence and then find out they have committed another one. In such cases you must inform them that they are also under arrest for the other offence as well.

Powers of arrest- persons other than constables – Section 24A PACE 1984

- (1) A person other than a constable may arrest without warrant:
 - anyone who is in the act of committing an indictable offence
 - anyone whom he or she has reasonable grounds for suspecting to be committing an indictable offence.
- (2) Where an indictable offence has been committed, a person other than a constable may arrest without warrant:
 - anyone who is guilty of the offence
 - anyone whom he or she has reasonable grounds for suspecting to be guilty of it.

The power to arrest at 1 or 2 above is only exercisable if certain reasons (see below) exist.

Indictable offences

A constable can arrest for any offence, but a person other than a constable is restricted to arresting for offences that are indictable.

Other persons can only arrest for offences that have been committed (past) or are in the act of being committed (present).

The Reasons- Section 24(3) and (4) (a) to (d) PACE 1984

The power of arrest is only exercisable if:

- the person making the arrest has reasonable grounds for believing that for any of the reasons below it is necessary to arrest the person in question, and
- it appears to the person making the arrest that it is not reasonably practicable for a constable to make it instead.

The reasons are to prevent the person in question:

- a) causing physical injury to their self or any other person
- b) suffering physical injury
- c) causing loss of or damage to property, or
- d) making off before a constable can assume responsibility for them

The first three reasons have the same meaning as those contained in the ten reasons for the powers of arrest for a constable.

Assuming responsibility following a citizen's arrest

When you assume responsibility of a person arrested by another person who is not a constable, you must comply with the PACE Codes of Practice and inform that person that they are under arrest, the grounds for the arrest, including the reason and the offence for which they have been arrested. It is best practice that you do so, even if the arresting person may have already communicated this information. The person must be told as soon as practicable and in simple non-technical language that they can understand. This information should be recorded in your notes of arrest and any subsequent statement as well as informing the Custody Officer on arrival at the police station.

How to arrest

If you are working in plain clothes you must always identify yourself and show your warrant card when dealing with the public. When in uniform, you should still explain who you are and, if asked, produce your warrant card.

Considerations

Remember Human Rights legislation. Questions to ask yourselves at all times:

- are my actions lawful, justifiable, proportionate and non-discriminatory?

Lawful arrest

You must always inform the person that they are under arrest as soon as is practicable. This is so even where it is perfectly obvious that you have arrested them. You must also tell the person the grounds for the arrest. **Failure to do either of these things can make the arrest unlawful**

A person who is arrested, or further arrested, must also be cautioned unless: it is impracticable to do so by reason of their condition or behaviour at the time; or they have already been cautioned immediately prior to arrest. (Code C 10.4)

If you are not able to give them this information because they are violently struggling or are so under the influence of drink or drugs to understand, they should be informed as soon as practicable.

Use of force

When carrying out a lawful arrest, you are protected by **Section 117 of PACE**. This states that you may use reasonable force, if necessary, in the exercise of your power of arrest under provisions of PACE. These reasonable response options may be adapted to suit specific circumstances:

- verbal communication skills
- primary control skills - use of empty hand skills (escort position, pressure points, arm locks, wristlocks, use of handcuffs and restraints using a baton)
- defensive tactics - blocks, strikes, takedowns with empty hands, batons or rigid handcuffs (takedowns only) or use of incapacitants, all followed by control techniques
- deadly force - any action likely to cause serious injury or death. Use of empty hands, batons, firearms or by any other means

Search upon arrest-Section 32 PACE

Searches under this Section only apply to an arrest that has been made in a place other than a police station. If a person is arrested at a police station, then that person will only be searched under the directions of the Custody Officer.

Always consider searching the detainee before placing them in a police vehicle.

It is also good practice to search the police vehicle before placing a person inside and after removing the person. This will help you attribute any property that the detainee may discard while inside the vehicle.

You must be guided by your own force policy relating to searching a person who is not the same gender as yourself.

A constable may search a person who has been arrested at a place other than a police station if the constable has reasonable grounds for believing the arrested person may:

- present a danger to themselves or others
- have concealed on them anything which they might use to assist themselves to escape from lawful custody
- have concealed on them anything which might be evidence relating to an offence

Mnemonic: DIE

Danger/**I**mplement to escape/**E**vidence of any offence

Any property that you obtain in such a search must be handed to the Custody Officer immediately on arrival at the police station.

If a person is found severely drunk or unconscious through drink, they must be treated as a medical emergency and an ambulance called. An unconscious or severely drunk person should not be taken to the custody unit. You are advised to put a drunken person in the recovery position while waiting for an ambulance if they are unconscious.

Transport of detainees

- normally taken to the police station in a van
- special care must be taken of drunken detainees
- injured detainees must be taken to hospital
- female detainees must be accompanied by a female officer

Remember, once you have arrested a person, you are responsible for their safe custody until they have been dealt with by the Custody Officer at the police station.

Powers of detention for Police Community Support Officers (PCSOs)

Those PCSOs who have been designated by a Chief Officer with the powers of detention can require the name and address of a person who they have reason to believe has committed a relevant offence, or who is acting in an antisocial manner. Relevant offence here relates to a number of disorder type offences for which a fixed penalty notice can be issued.

If a person fails to comply with the requirement, or gives a name and address which the PCSO has reasonable grounds to suspect to be false or inaccurate, the PCSO may detain that person for up to 30 minutes until the arrival of a constable. Alternatively, a person may choose if asked by the PCSO, to accompany him/her to the police station. A PCSO may use reasonable force to detain a person and to prevent a detained person from making off during detention. It is a summary offence to fail to give a Police Community Support Officer a name and address when required to do so, or to make off during detention.

Custody/detention issues-Code C

The Custody Officer will require the following information:

- what time was the person arrested, for what offence(s) and the reason(s) for that persons arrest?
- what time did they arrive at the station?
- what is the reason for their arrest?
- were they lawfully arrested?

- why is further detention necessary?

Further detention can then be authorised. Whilst in custody detained persons have certain rights - they include the right to have someone informed of their arrest, to consult privately with a solicitor free of charge and consult the Codes of Practice.

Welfare and treatment of detained persons

A person under arrest should be taken to a 'designated police station', unless it appears that it will not be necessary to keep the person in police detention for more than six hours. Refer to force policy.

All designated police stations will have at least one officer of at least the rank of sergeant nominated to be the Custody Officer. The Custody Officer is responsible for initiating a 'risk assessment' to consider whether the detainee is likely to present specific risks to custody staff or themselves. Although such assessments are primarily the Custody Officer's responsibility, it may be necessary for them to consult with you as the arresting officer for further information.

All persons in custody must be dealt with expeditiously and released as soon as the need for detention has ceased to apply. Where there is sufficient evidence, the person should be charged and only detained for a sufficient length of time to allow this action to be carried out. The person should then be released on bail unless their continued detention is necessary to:

- secure or preserve evidence relating to the offence for which that person is under arrest, or
- to obtain such evidence by questioning that person.

The person should be informed of the grounds for detention, an entry made on the custody record to this effect and a note made of any reply.

Searching detained persons-Section 54 PACE 1984

The Custody Officer is responsible for ascertaining what property a detainee has with them when they are detained at the police station. Additionally, this Section also allows the seizure and retention of property from a detainee.

Clothes and personal effects may only be seized if the Custody Officer:

- a) believes that the person from whom they were seized may use them:
 - i. to cause physical injury to himself or any other persons;
 - ii. to damage property;
 - iii. to interfere with evidence; or
 - iv. to assist them to escape; or
- b) has reasonable grounds for believing that they may be evidence relating to an offence

Where anything is seized, the person from whom it is seized must be told the reason for the seizure unless they are:

- a) violent or likely to become violent; or
- b) incapable of understanding what is said to them

It is a matter for the Custody Officer to determine whether a record should be made of the property a detained person has with them or had taken from them on arrest.

HIV and AIDS awareness

The taking of simple safety precautions, such as wearing of surgical rubber gloves, looking in pockets and bags for sharps before inserting hands, when conducting searches can minimise the risk.

Persons at risk

Juveniles and people experiencing mental ill health are classified as 'persons at risk'. A juvenile or someone who is experiencing mental ill health, whether suspected or not, must not be interviewed or asked to provide or sign a written statement in the absence of the appropriate adult. **Appropriate adult** means, in the case of a juvenile: their parent or guardian, or if the juvenile is in local authority or voluntary organisation care, or is otherwise being looked after under the Children Act 1989, a person representing that authority or organisation, a social worker of a local authority or failing either of the above, another responsible adult aged 18 or over who is not a police officer or police employee. In the case of someone who is experiencing mental ill health: a relative,

guardian or other person responsible for the person's care or custody, someone experienced in dealing with mental ill health, for instance an approved social worker or a specialist social worker who is not a police officer or employed by the police or failing either of the above, another responsible adult aged 18 or over who is not a police officer or police employee.

Drunken Detainees

Appropriate care of detainees who are drunk is an important part of reducing deaths in police custody. The Custody Officer will normally arrange for a drunken detainee to be seen by a health care professional and require the detainee to be checked at least once every 30 minutes. Other measures include placing the cell mattress on the floor and placing the person in the recovery position.

If you are asked to conduct a check on a drunken detainee in police detention you should always follow the 4R's and note the person's response: R - Rouse the detainee, can they be woken? R - Response to questions, can they give appropriate answers to questions such as, 'what is your name', 'where do you live' R - Response to commands, can they respond appropriately to commands such as, 'raise your left arm', 'now the other arm' R - Remember to take into account that another medical condition may be present, for example diabetes, epilepsy, head injury, stroke, drug intoxication or overdose

The fact that the person has been checked and their response to the 4R's must be recorded on the custody record. Writing 'checked all correct' or similar is not acceptable for any detainee. You must always note what you observed and notify the Custody Officer at once if you cannot get a response from the person. For more information - see Annex H of Code C of the Codes of Practice.

Bail (LPG1_4_02) v1.00

Bail is a temporary release of an accused person that requires that person to surrender themselves to custody at an appointed place and time. Bail can be 'unconditional' or 'conditional'.

Bail in criminal proceedings means:

- a) bail grantable in, or in connection with proceedings for an offence to a person who is accused or convicted of that offence, **or**
- b) bail grantable in connection with an offence to a person who is under arrest for the offence or for whose arrest for the offence a warrant (endorsed for bail) is being issued or
- c) bail grantable in connection with extradition proceedings in respect of an offence

Every person in custody at a police station and charged with an offence has a right to be released on bail.

It is the responsibility of the custody officer to consider the question of bail and unless there are specific reasons not to, then they must grant an un-convicted accused person bail.

Reasons to refuse bail

Section 38 (1) PACE sets out the occasions where bail can be refused:

- name or address cannot be ascertained
- custody officer has reasonable grounds for believing whether a name or address given is real
- interference with administration of justice or with the investigation of offences or of a particular offence
- welfare (juveniles only)
- to enable a sample to be taken under section 36b PACE
- when arrested for an imprisonable offence, detention is necessary to prevent the commission of an offence
- risk of physical injury to any other person or risk of loss of damage to property (when arrested for a non imprisonable offence)
- own protection
- risk of absconding

Offence of Absconding

Section 6 of the Bail Act 1976 makes it an offence for a person to fail, without reasonable cause, to surrender to their bail. It states:

- 1) if a person who has been released on bail in criminal proceedings fails without reasonable cause to surrender to custody he shall be guilty of an offence
- 2) if a person who:
 - a. has been released on bail in criminal proceedings, and
 - b. having reasonable cause therefore, has failed to surrender to custody,

fails to surrender to custody at the appointed place as soon after the appointed time as is reasonably practicable he shall be guilty of an offence.

Documentation (LPG1_4_03) v1.02

An important part of police work is the accurate completion of relevant documentation and the forwarding of information.

Pocket notebook recording

Evidential Notes must be original notes made at the time or as soon as practicable thereafter. In the case of the Metropolitan Police Service, evidential notes should be recorded in an Evidence and Actions Book (EAB).

Non-Evidential Notes may be used to record information that is not of an evidential nature, but which may assist you in carrying out your duties.

Pocket Notebook Rules

No E rasures

No L eaves torn out

No B lank spaces

No O verwriting

No W riting between lines

S tatements in direct speech

You should:

- use black ballpoint pen
- put names and addresses in CAPS
- use 24 hour clock
- single strike through errors
- initial mistakes

Briefing

All operational shifts commence with a briefing to pass on up to date intelligence. They are structured as follows:

1. Parade

3. Tasking

2. Information Sharing

4. Deployment

Contemporaneous record of interview

Contemporaneous notes are often used when interviewing a suspect in relation to a summary offence. The record must be verbatim and provide a full and accurate contemporaneous record of what is said.

Crime recording standard

The standard sets out three basic principles for the recording of crimes for forces to follow:

- All reports of incident, whether from victims, witnesses or third parties and whether crime related or not, will result in the generation of an incident report.
- Following the initial registration, an incident will be recorded as a crime (notifiable offence) if, on the balance of probability:
 - the circumstances as reported amount to a crime defined by law and,
 - there is no credible evidence to the contrary.
- Once recorded, a crime will remain recorded unless there is credible evidence to disprove that a crime has occurred.

Modus Operandi (10 points) - STOPCRIMES

Style Time Objective Pal Class Reason Instrument Mode Entry Signature

Case Papers (Manual of Guidance)

When a person has been arrested and charged or reported for summons with an offence(s) all the relevant evidence and information in respect of the case must be collated into a prosecution file.

The forms that are used to collate this evidence and information are a set of nationally agreed forms that are contained in the **Manual of Guidance (MoG)**.

When the file is complete it is submitted to the Crown Prosecution Service (CPS) who are responsible for prosecuting the offence in court.

The Streamlined Process of prosecution case file

The Streamlined Process forms part of the Government's programme to improve efficiency and effectiveness and is a new system of preparing some types of case files prior to their submission at a magistrate's court. Its aim is to reduce (streamline) the contents of some case files, providing a more proportionate prosecution file, to process anticipated guilty plea cases which are suitable for sentencing in the magistrates' court.

The Streamlined Process will have a significant impact on how you produce some case files, for example by its provisions for streamlining statements and therefore you should complete the e-learning package entitled Streamlined Process, which is available by accessing the Managed Learning Environment (MLE) on the National Centre for Applied Learning Technology (NCALT) website at www.ncalt.com.

Exhibits (LPG1_4_04) v1.00

The officers involved in an investigation have control of an exhibit from its discovery to its eventual presentation in court. Further information about seizing and preserving specific types of exhibits can be found in **LPG1_7_06 Securing and Preserving Digital Evidence and LPG1_7_10 Specialist Support Exhibits**.

Packaging of exhibits

Damp or wet items are not suitable for examination – they should be dried prior to storage or submission for forensic examination. Some key points to remember when dealing with the packaging of exhibits are:

- footwear should be packaged separately, with one package per shoe – pairs should not be packaged together
- paper sacks should be used to package clothing, which should never be stored in polythene bags (unless they are stained with wet body fluids)
- packaging should never be stapled
- items such as hypodermics, needles, knives etc. should only be handled by CSI staff

Exhibit reference numbers

Exhibits numbers are a combination of the initials of the person finding the exhibit, and a chronological number depending on how many exhibits that individual is dealing with regarding that incident.

N.B. Each incident is dealt with in isolation – with each new incident the exhibit numbers start at 1 again.

Restoring exhibits to the owner

The restoration of an exhibit to the accused will depend on what it is, and what powers the court is given to dispose of it.

Health and safety considerations

- do not eat, drink, smoke or touch the facial area while handling samples or exhibits
- all body fluid samples should be regarded as potentially infectious
- all cuts or grazes on your hands should be protected by waterproof dressings before handling items

Handle all items as little as possible and until items have been packaged make sure you wash your hands between handling items to avoid cross contamination.

Items which are considered hazardous should only be dealt with by CSI.

Fingerprints, photographs and DNA samples

Fingerprints; The power to take fingerprints comes under Section 61 of PACE. There are generally three reasons for taking a person's fingerprints:

1. to confirm that the person you are dealing with is who they say they are, or to establish the identity of a person, for example a body or someone who has lost their memory
2. to find out if the person has a criminal record
3. to discover if the person is responsible for any other crime, by comparing their fingerprints to unidentified fingerprints found at the scene

DNA; Section 63 PACE gives the police power to obtain non intimate samples for DNA testing without consent if the person is in police detention following their arrest for a recordable offence.

Non intimate samples may be taken with appropriate consent from any person, as with fingerprints, usually for elimination purposes.

Photograph; police may photograph a person detained at a police station for an offence. The power for this comes from Section 64A PACE which states:

The police may take photographs of a detained person

1. with their consent; or
2. without their consent if it is not practicable to obtain their consent or their consent is withheld

Giving Evidence (LPG1_4_05) v1.02

You may be called upon to give evidence at court. It is important that you maintain your professionalism and integrity.

You must be prepared for your appearance - be smart, punctual and ensure you deliver any exhibits you are responsible for to the court.

When addressing the bench:

Magistrates' Court

Magistrates (including stipendiary) – 'Your worship(s)'

Crown Court

High court judges are referred to as 'my lord' or 'my lady'

Circuit judges and recorders are referred to as 'your honour'

Evidence

May be presented in one of three ways:

- oral
- real
- documentary

Always tell the truth and follow the ten golden rules of evidence giving:

1. Listen to the question
2. Make sure you really understand the question and if not, ask for it to be repeated or clarified
3. Think carefully about the answer
4. Answer the question (and only the question)
5. Keep your answer short and to the point
6. Never be evasive
7. Be reasonable
8. Be courteous at all times
9. Admit your mistakes
10. State the facts plainly

Always avoid using jargon and abbreviations such as IC codes when giving evidence. They are confusing to other people and can appear disrespectful.

Stopping Lost or Stolen Vehicles (LPG1_4_06) v1.05

In dealing with reported theft, the action to take will vary with the circumstances. Whether you attend the scene of the theft following a report or have it reported to you in the street, the action to take will be similar in both cases.

If someone has been injured during a theft, the priority will be to ensure that help is summoned.

In the case of theft, if the vehicle has been recently taken, it is important that the details of the stolen vehicle and of the circumstances of the theft are reported immediately to maximise the chances of its early recovery. The report should include any special circumstances such as:

- A valuable load (e.g. cigarettes, alcohol, cash)
- Dangerous contents (e.g. chemicals, drugs, explosives)
- If it is suspected that the vehicle will be used for further criminal activity
- Special types of vehicles (police, armed services, diplomatic, VIP)

The details should be sent to your force's contact point for circulation and you should **familiarise yourself with your own force policy**.

The power to stop suspected stolen motor vehicles

You have the power to stop a vehicle (a suspected stolen vehicle or otherwise) under Section 163 of the Road Traffic Act 1988. Drivers of mechanically propelled vehicles and riders of cycles must stop if requested to do so by a constable in uniform. This also confers the right to check the vehicle (lights, tyres, documents etc.).

Safely Stopping a Vehicle

- Even if, after stopping a vehicle, you do not intend to carry out a vehicle check, let your Communications Room or Control Room know your location. This is especially important if you are alone or are outnumbered by the occupants of the vehicle.
- Always consider obtaining assistance, or at least make a mobile unit aware of the situation. You cannot arrest two people on your own. If the vehicle contains more than one person in it, get assistance.
- If you are on foot, do not step in front of vehicles to stop them.
- Always ask the driver to switch off the engine. Wherever possible, the driver of the police vehicle should remain in his or her vehicle with the engine running until such time as the engine of the suspect vehicle is turned off.
- Take possession of the keys if possible while talking to the driver, but beware of getting part of your body held or trapped in the vehicle. Do not lean through windows in order to, for example, turn off the engine. Open the driver's door to get the keys.
- If for some reason the driver does not want to turn off the engine separate him or her from the vehicle. If you are going to complete a search of the boot, remember your own safety.
- Be vigilant at all times and judge the merits of an action on the circumstances of the case.
- Be alert to drink/drive offences, the possibility of weapons being carried and the danger of assault.

- It is unwise to indicate to drivers to stop just before a left hand turn unless you want them to turn down it, as they may use it as a method of escape.
- It is a good idea to stop the police vehicle behind the suspect vehicle in all circumstances, using the police vehicle as a shield. Park it a few metres behind the suspect vehicle and about a metre from the kerb.
- Consider carrying out a vehicle check before you stop the suspect vehicle. If there is anything shown you will be forewarned and will be able to make plans accordingly. Write down the registration number of the vehicle before you attempt to stop it. That way, if the driver should fail to stop and drive off at high speed you will be able to circulate the correct details.

Checks to establish if someone is in lawful possession of a vehicle

In trying to determine whether someone is in lawful possession of the vehicle:

- Ask for the name and address of the driver and check against a document e.g. a driver's licence.
- Obtain the Vehicle Registration Mark (VRM), the number shown on the plates at the front and rear of the vehicle, the Vehicle Identification Number (VIN) which is shown on a small plate, normally fixed under the bonnet somewhere and the Engine Number which is stamped on the engine block.
- Check all details against the record on the Police National Computer (PNC)
- If something seems unusual, question the driver and, if applicable, the passengers.

Stolen vehicles found abandoned

If a vehicle appears and remains in a location over a period of time, that is, it is in exactly the same place and does not appear to have been moved, it may be an abandoned vehicle.

If you suspect that a vehicle is abandoned, do not touch it or its contents until you have made some initial enquiries. By not handling it you will:

- Prevent evidential contamination (if it has been used during a crime it may be an exhibit)

- Prevent possible harm to yourself or others. (It may be a terrorist vehicle with an explosive device)

Check with the Police National Computer (PNC) to establish whether anything is known in respect of the vehicle.

Warning – Abandoned vehicles may contain an explosive device. Officers should be aware that, if police Airwave terminals are operated near to any explosive device, there is a risk that this may detonate any explosive. The general rule is that hand-held personal radios and cellular telephones must not be used to transmit information within **15 metres** of any suspected explosive device. Radios fitted in vehicles and R/T sets must not be used to transmit information within **50 metres** of any suspected explosives device. Radio pagers that receive only present no risk (be aware that cellular telephones, when switched on, will transmit independently as they 'hunt' for the nearest phone mast, therefore it may be advisable to switch them off).

Police Communication (LPG1_4_07) v1.00

The Phonetic Alphabet

A	Alpha	H	Hotel	O	Oscar	V	Victor
B	Bravo	I	India	P	Papa	W	Whiskey
C	Charlie	J	Juliet	Q	Quebec	X	X-ray
D	Delta	K	Kilo	R	Romeo	Y	Yankee
E	Echo	L	Lima	S	Sierra	Z	Zulu
F	Foxtrot	M	Mike	T	Tango		
G	Golf	N	November	U	Uniform		

Police National Computer (PNC)

PNC information is held within the categories; people, vehicles, property, information directories and broadcast messages. The PNC is a major tool in crime prevention and investigation, many of your checks will be to gather or verify information relating to persons and vehicles.

There are three basic reasons why personal details are kept on the PNC:

- Wanted/missing and/or
- Disqualified driver and/or
- Subject of legal process, i.e. that a person has previously been convicted or cautioned for certain offences, or has a case pending

Requesting a PNC check

When carrying out PNC checks, information should always be given in the following order, as this is the order in which the operator must record it:

- The type of enquiry you require, e.g. a vehicle or name check
- Who you are (normally your force number or name)
- Where you are (this is important for security and for your own protection if you later require urgent assistance as a result of the enquiry)
- Why you want the enquiry (e.g. because you have arrested somebody or are checking a parked car)
- The details you require to be checked, e.g. vehicle registration mark

NASCH factors

These must be supplied in the order shown for person checks:

Name: surname followed by any forenames
Age: date of birth (e.g. 11/05/1960)
Sex: male, female or unknown
Colour: white, non-white or unknown
Height: in feet/inches, or metres/centimetres

Vehicles on the PNC

The PNC contains details of over 56 million motor vehicles in the United Kingdom which are registered at the DVLA. The details recorded are in two parts:

- information recorded by the DVLA, and
- where appropriate, police reports about the vehicle

The DVLA record includes vehicle registration mark, the make, model, type of vehicle, colour(s), the Vehicle Identity Number (VIN), engine number and capacity. The record also shows details of the keeper's name and address

(including postcode), and the date of first registration. The DVLA also record other items of information, in the form of 'markers'.

Making an enquiry on the PNC vehicle application

There are several ways of carrying out enquiries on the vehicle application:

- VRM (Vehicle Registration Mark) enquiry
- partial VRM enquiry
- VIN (Vehicle Identity Number) enquiry
- VODS (Vehicle On-line Descriptive Search)
- Multiple searches up to 15 vehicles

Airwave Terminals and suspect IED's

For safe distances for radio use see LPG1_4_15 Explosive Awareness / Bomb Alert.

Powers of Entry (LPG1_4_08) v1.02

Sections of the PACE Codes of Practice give you the power to enter and search premises and the rules that govern the conduct of all searches of premises.

Any use of the powers of entry must be based on reasonable suspicion.

Reasonable suspicion means a fairly strong suspicion based on fact that would be apparent to an objective third person

'Premises' includes any place and, in particular, includes any:

- vehicle, vessel, aircraft or hovercraft
- tent or movable structure
- offshore installation
- any renewable energy installation

As with all powers of entry, you should initially endeavour to speak to the owner of the premises, explain the situation and hopefully gain consent to enter and search. If this is not practicable, either because the owner is not available, or to do so would hinder the arrest, then the premises may be entered and reasonable force may be used in doing so. The search may only be carried out to the extent that is required to find the person to be arrested.

Entry for the purpose of arrest (Section 17 PACE 1984)

You may enter and search any premises for the purpose of:

- executing a warrant of arrest issued in connection with criminal proceedings or commitment warrant
- arresting for an indictable offence
- arresting for an offence specified in PACE
- arresting a child/young person remanded or committed to local authority accommodation
- recapturing any person unlawfully at large
- saving life and limb/ preventing serious damage to property

Entry of premises following arrest (Section 32 PACE 1984)

If you have cause to believe that evidence will be found on premises when a person has been arrested for an indictable offence, you may search the premises where the person was arrested or where the person was immediately before being arrested. Section 32(2) (b) of PACE provides a power to enter and search such premises following an arrest for an indictable offence.

Entry of premises following arrest (Section 18 PACE 1984)

You may enter and search any premises occupied or controlled by a person who is under arrest for an indictable offence for evidence that relates to that offence, or some other indictable offence which is connected with or similar to that offence. The authority of an inspector must be obtained before conducting a search under Section 18, unless special circumstances apply.

Seizure of property: You may seize anything covered by warrant, and anything believed is evidence of an offence.

Bad Character Evidence (LPG1_4_10) v1.00

The Criminal Justice Act 2003 introduced a new statutory scheme to the admissibility of bad character evidence regarding both defendants and non-defendants. The Act takes a different approach to the bad character of non-defendants and defendants. Non-defendants are given protection against their bad character being exposed unless the 'enhanced relevance test' is satisfied.

On the other hand the Act has an inclusionary rather than an exclusionary approach to a defendant's bad character. A defendant's bad character is not subject to the 'enhanced relevance test'. It is admissible if it is relevant to an important matter at issue, but the court does have discretion to exclude it.

'Bad Character' for both non-defendants and defendants - Section 98 Criminal Justice Act (CJA) 2003

Evidence of, or of a disposition towards, misconduct on his part, other than evidence which:

- a) has to do with the alleged facts of the offence with which the defendant is charged, or
- b) is evidence of misconduct in connection with the investigation or prosecution of that offence

Misconduct means the commission of an offence or other 'reprehensible' behaviour

Bad character is wide enough to apply to:

- a) conduct arising from a conviction, or
- b) conduct where there has been an acquittal
- c) where a person has been charged with another offence, and that trial is pending, the use of the evidence relating to that charge in the current proceedings

Reprehensible conduct

The Act does not provide a list. However, the Crown Prosecution Service suggests that the types of conduct likely to come within the definition include racism, bullying and petty pilfering from employers.

Exceptions to 'Bad Character'

There are two exceptions:

- a) evidence which has to do with the alleged facts of the offence with which the defendant is charged (Section 98(a)), and
- b) evidence of misconduct in connection with the investigation or prosecution of that offence (Section 98(b))

Note: Section 98 simply defines what 'bad character' is. The fact that certain conduct falls within the definition does not mean that it is automatically admissible in evidence. There are other criteria to be met and these are different for non-defendants and defendants.

Admissibility of non-defendant's bad character

Prosecution witnesses in a criminal hearing or trial are the people whom the defence most frequently seek to attack by the introduction of evidence of bad character. In criminal proceedings evidence of the bad character of a person other than the defendant is admissible if and only if:

- it is important explanatory evidence
- it has substantial probative value in relation to a matter which is in issue in the proceedings and is of substantial importance to the case as a whole or
- all parties to the proceedings agree to the evidence being admissible

The defendant's bad character

Evidence which is relevant to the case should be admissible.

Section 101-CJA 2003

In criminal proceedings evidence of the defendant's bad character is admissible if, but only if:

- a) all parties to the proceedings agree to the evidence being admissible
- b) the evidence is adduced by the defendant himself or is given in answer to a question asked by him in cross examination and intended to elicit it
- c) it is important explanatory evidence
- d) it is relevant to an important matter in issue between the defendant and the prosecution
- e) it has substantial probative value in relation to an important matter in issue between the defendant and the co-defendant
- f) it is evidence to correct a false impression given by the defendant or
- g) the defendant has made an attack on another person's character

Where the evidence falls within a), b), c), e), and f) the evidence is admissible.

Where the evidence falls within d) or g) it is admissible, unless, on application by a defendant, it has such an adverse effect on the fairness of the proceedings that the court ought not to admit it.

Section 34 of the Criminal Justice Act 2003 inserts a new section 6C which creates a new requirement for the accused to disclose in advance the name, address and date of birth of the witnesses they intend to call at the trial.

Officer's role

It is not part of your role as a police officer to decide whether evidence of bad character should form part of the prosecution case or whether the character of the prosecution witnesses is likely to damage your own case. These are questions which are quite rightly left to lawyers. However, you and your colleagues are the people in the best position to discover the facts about the character of defendants and others and to bring this to the attention of the Crown Prosecution Service. Your responsibilities include:

- ensuring that you have all possible information about the character and antecedents of the defendant
- check criminal records thoroughly and include information concerning previous alibis and whether the person pleaded guilty or not guilty

Documentation

MG16: This form should be completed where evidence of bad character is being considered as part of the prosecution case.

MG6B: Police officer's disciplinary record

Further details on completion of these forms from the current Prosecution Team Manual of Guidance available at:

<http://police.homeoffice.gov.uk/operational-policing/prosecution-manual-guidance>

Summonses and Warrants (LPG1_4_11) v1.02

Basically there are three ways in which a person can be brought before a criminal court - by summons, arrest on warrant and arrest without warrant.

Summonses and warrants are both important documents used in the administration of justice.

- A **Summons** orders a person to attend court,
- A **Warrant** directs a constable and certain other persons to carry out a specific action.

Types of Summons

There are two types of summons:

- witness summons;
- defendant summons.

Service of summons

The actual summons may be served on the person specified in the following ways:

- by handing it to them personally;
- by leaving it with another person, at their last known or usual place of abode; or
- by posting it by first class post to an address where it is reasonably believed they will receive it.

A summons for an offence committed by a corporation may be served by handing it to a person holding a senior position in that corporation.

If a summons is to be successfully served, it is essential that the correct information is obtained when dealing with suspected offenders. You must always ensure that you obtain the person's:

- full name;
- full address, including post code;
- date of birth; and
- wherever possible, a national insurance number.

Warrants

A warrant is a written authority issued by a magistrate or a judge which directs the person or persons to whom it is addressed to do some particular act which is set out in the warrant.

Types of warrant

There are a number of different types of warrant. The main ones that concern the police are warrants for:

- commitment (to take a person to prison); or
- arrest

A warrant to arrest a person may be issued for one of the following reasons:

- arrest for an offence
- failure to answer a summons
- extradition warrant (European Arrest Warrant)

Officers must only arrest for extradition where there is a clear direction to do so on the PNC. When making the arrest, it is imperative that the appropriate caution is used. This is not an arrest under PACE and so the arresting officer should state the following:

“You are under arrest under the Extradition Act 2003. You do not have to say anything. Anything you do say may be given in evidence.”

Cancellation of a warrant

Once a warrant has been executed the warrant must be cancelled on the PNC.

The Criminal Justice System (LPG1_4_12) v1.00

The law in England and Wales may be divided into two, namely:

- Common law
- Statute law

Common Law originated from customs which were shaped and interpreted by rulings in the courts. These rulings established precedents that had to be followed by the courts hearing subsequent cases. Very few common law offences still exist as the law is now more precisely defined by Acts of Parliament. Courts cannot introduce new common law offences as this is the responsibility of Parliament. An example of common law that still exists is murder.

Statute Law includes all laws made by direct order of the State and set out in Acts of Parliament (statutes) and subordinate legislation made under the authority of these Acts.

Acts of Parliament: Statute law is based upon Acts of Parliament. These have to be approved by the House of Commons and the House of Lords and must receive Royal Assent before they take effect, for example, the Theft Act 1968. An Act of Parliament may authorise a government minister or local authority to introduce further legislation on the subject covered by the Act. Subordinate legislation includes:

- statutory instruments which are made by a government minister and usually called Regulations or Orders
- bylaws that are passed by a local authority and deal with local matters

Additionally, certain Acts of Parliament provide for Codes of Practice (guidelines) to be written, for example, the Police and Criminal Evidence Act 1984 Codes of Practice A-G.

Case Law is the term commonly used for the system of judicial precedent where the decision of a court as to a matter of law in one set of circumstances is binding upon another court dealing with a case involving similar circumstances on another occasion.

Human Rights Law: The UK is a member state of the Council of Europe and has ratified the European Convention on Human Rights 1950. However, the provisions of the Convention were not incorporated into English law until the passing of the Human Rights Act 1998.

The Criminal Justice System (CJS)

Across the CJS, agencies such as the Police, HM Courts Service, the HM Prison Service, the Crown Prosecution Service, National Probation Service and the Youth Offending Teams work together to deliver the criminal justice process. Responsibility for investigating crime remains vested primarily in the police. Responsibility for prosecuting cases resulting from police investigations rests with the Crown Prosecution Service (CPS).

Once a decision has been taken to prosecute an individual, the courts become involved. **Virtually all criminal prosecutions, from the most minor road traffic offences to the most serious criminal offences, begin their life in the Magistrates' Court.** All but the more serious of cases are dealt with there. The more serious offences are dealt within the Crown Court. The defendant may present their own case in the Magistrates' Court or a solicitor or barrister may represent them. If the case is to be dealt with in the Crown Court, a barrister will usually represent the defendant. If a community sentence is passed (see below) the Probation Service will be called upon to supervise that sentence. If the defendant received a custodial sentence, the Probation Service will be called upon to provide support following the defendant's release.

The Court System

The vast majority of criminal cases are dealt with summarily at the Magistrates' Court. These are locally based courts designed to deliver speedy (summary) justice.

Cases in the Magistrates' Court may be heard either by a bench of Lay Magistrates (at least two and usually three) or by a Stipendiary Magistrate. A Stipendiary Magistrate is legally qualified and salaried. They are now generally referred to as 'District Judges'. Lay Magistrates, known as Justices of the Peace, are appointed by the Crown and must retire at the age of 70. They receive no salary, but can claim expenses.

The sentencing powers of Justices are limited. For example, **they cannot impose sentences of imprisonment for longer than six months** for any one single offence, or 12 months in total. If an offence is triable either way (see

below) and the court is of the view that a more severe sentence is necessary, the offender may be committed to the Crown Court for sentence.

Within the Magistrates' Courts, certain courts are designated as Youth Courts.

Youth Courts deal only with offences involving children and young persons under 18 years of age who are not jointly charged with adults. Youth Courts usually sit apart from other courts and are not open to the public.

The Crown Court has jurisdiction to hear cases to be tried on indictment. It also deals with persons committed for sentence from the Magistrates' Court and hears appeals from the lower courts, including Youth Courts. These Courts are usually presided over by a circuit judge although some courts are presided over by part time judges, known as Recorders. A high court judge can only try the more serious offences.

Getting the Accused to Court

When the police and CPS decide to prosecute the accused is either charged or summoned to appear at court. When the accused is charged, the police may hold them in custody until they can be brought before a Magistrates' Court. Alternatively, they may be released on bail after being charged to appear at the Magistrates' Court on a specified date. The police now have the power to attach conditions to that bail if the accused is prepared to agree to the proposed conditions. If the accused is not prepared to agree to the proposed conditions then they may be detained by the police and placed before the next available court when the court will be asked to impose conditions. Bail conditions may only be imposed by the police where it appears necessary to prevent the person from failing to surrender to custody, commit further offences, interfere with witnesses, or for that person's own protection.

Section 47(3) Bail PACE 1984

This procedure is usually implemented in consultation with the custody officer when an arrested person has to be released, pending further enquiries or for the CPS to make a decision whether to charge the person after reviewing the evidence.

Failing to answer police bail - Section 46A Police and Criminal Evidence Act 1984

Power of arrest without warrant – constables only

Classification of offences

- **Offences triable only on indictment:** The most serious offences that can only be dealt with at Crown Court. For example murder and rape.
- **Offences triable either way:** Can be tried either in the Magistrates' Court or at the Crown Court. For example theft.
- **Offences triable summarily only:** Can only be tried in the Magistrates' Court. For example common assault and most motoring offences.

Magistrates' Court Procedures

When an accused appears before a Magistrates' Court for the first time, the court may deal with the case or adjourn it. For example, it could be that the defendant may wish to plead not guilty so that witnesses have to be warned to attend court. Where the case is adjourned, the court may remand the accused in custody or on bail. With the exception of some of the most serious offences, or where it can be established that the accused has offended whilst already on bail, there is a statutory right to bail. That right may be overruled in certain circumstances one of which is if the court believes the accused may interfere with prosecution witnesses. Where the accused is before the court for an offence that is triable either way, the magistrates will have to decide where the case should be dealt with.

- **Guilty plea** - the magistrates hear the facts of the case and other relevant information. They may proceed to pass sentence or commit the accused for sentence at the Crown Court if their powers of sentence are inadequate
- **Not guilty plea** - the magistrates will ask the CPS where the case should be dealt with and the reasons why. The accused, or his solicitor are also allowed to make representations to the court
- **Case too serious** - the magistrates will direct the case to be dealt with on indictment at the Crown Court

- **Case can be dealt with** - the accused still has the right to choose to be tried by a jury at the Crown Court

The accused has no right of election if the offence is triable summarily only or triable only on indictment. An offence triable summarily only must be dealt with in the Magistrates' Court. An offence triable only on indictment must be tried in the Crown Court.

Where a case is being dealt with in the Magistrates' Court and the accused has pleaded not guilty, the court will hear evidence from witnesses and must decide whether to convict the accused or dismiss the case. The question of guilt is determined by the Lay Justices (or Stipendiary Magistrate) who are judges both of law and fact, although they may seek legal advice from their clerk. If the accused pleads guilty or is found guilty after a summary trial, the court may proceed to sentence immediately or adjourn the case if further information is required about the accused.

Committal proceedings: Where a case is to be dealt with at the Crown Court, the prosecution must satisfy the Magistrates' Court that there is a case for the accused to answer. If the accused is committed for trial, the charges upon which they are to be committed will be read to them and they will be told the date upon which they must appear at the Crown Court.

Note: Section 51 of the Crime and Disorder Act 1998 established a procedure whereby indictable only cases will go straight to the Crown Court from a preliminary hearing in the Magistrates' Court. For such offences, committal proceedings have been abolished.

Crown Court Procedures

The first occasion upon which an accused appears at the Crown Court following committal is known as a 'Plea and Directions Hearing'. If the accused pleads guilty, the judge may proceed to pass sentence there and then. If the accused pleads not guilty, the case will be adjourned for trial by jury.

At the conclusion of the trial, when all of the evidence has been heard, both prosecution and defence counsel make a closing speech to the jury. The judge will then sum up the evidence and give directions to the jury on any matters of

law. The jury will then retire to consider their verdict. The level of proof required in a Criminal Court is 'beyond reasonable doubt', which is different to a Civil Court, which is 'on the balance of possibilities'. The judge will initially tell them that their verdict should be unanimous. After a certain length of time however, the judge is able to accept what is known as a majority verdict, but this must be at least ten to two.

Youth Courts

Juveniles (any person under the age of 18) are tried in Youth Courts. Apart from the fact that members of the public are not allowed access the procedures are otherwise very similar to those in the adult Magistrate's Court. A juvenile has no right to elect to be tried at the Crown Court unless special circumstances exist.

Sentencing

In determining the appropriate sentence for an accused who has pleaded guilty, or been found guilty after a trial, the judge or magistrates must take account of a number of factors:

- the facts of the offence(s)
- the circumstances of the offender
- other offences
- mitigating circumstances

Options

- prison sentences-adults and young offenders
- suspended sentences
- community sentences
- community punishment orders
- community rehabilitation orders
- curfew orders
- drug treatment and testing orders
- action plan orders
- reparation orders
- referral order
- fines
- forfeiture of property
- discharges-conditional and absolute

Retrial for serious offences

Part 10 of the Criminal Justice Act 2003 permits retrials of persons who have been acquitted of certain qualifying (serious) offences to take place. In order for this to happen, the evidence against the person must be new, compelling, and must not have been available at the time of the original court case. Qualifying offences are numerous but include murder, manslaughter, rape, and serious sexual and drug related offences. Examples of new evidence would include a witness who did not appear at the original trial or results of DNA tests which were not available. Evidence is compelling if it is reliable, substantial and highly probative. Consent from the Director of Public Prosecutions (DPP) must be obtained to reinvestigate the suspect, by an officer of commander rank or above in the Metropolitan and City Police forces, or an assistant chief constable in other forces.

Policing Plans (LPG1_4_13) v1.00

The National Community Safety Plan sets out clearly what the Government has decided are the priorities, expectations, targets and developments for policing in England and Wales. This plan is available for anyone to examine so that the community will know what to expect from its police service.

The Home Secretary decides what the key strategic priorities should be and publishes them within the National Plan.

All forces must complete a three-year strategy plan which sets out the short, medium and long term strategies for the policing of their area during that period.

Each force publishes a number of local priorities to compliment the national priorities. This combination and accompanying strategy forms the local policing plan. Every police force is assessed by the Home Office and Police Inspectorate in the same way. For each performance area, forces are assessed against their most similar counterparts and are graded for delivery as excellent, good, fair or poor and whether or not performance is improving.

Each year local policing summaries are produced by each police authority. They are a means of getting information to the public about how they are being policed. The government is committed to strengthening community engagement in policing and believes that the provision of information on how local policing is being delivered is central to this.

You should make yourself aware of your local policing plan and aim to deliver a quality service in line with it.

Police Personnel Procedures (LPG1_4_14) v1.00

Standards of Professional Behaviour

The Standards of Professional Behaviour set out the principles that guide the conduct of police officers. The Standards apply to all police officers reflecting the expectations that the police service and the public have of the how police officers should act whether on or off duty.

The provisions of the Standards of Professional Behaviour are as follows:

- **Honesty and Integrity:** Police officers are honest, act with integrity and do not compromise or abuse their position.
- **Authority, Respect and Courtesy:** Police officers act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy. Police officers do not abuse their powers or authority and respect the rights of all individuals.
- **Equality and Diversity:** Police officers act with fairness and impartiality. They do not discriminate unlawfully or unfairly.
- **Use of Force:** Police officers only use force to the extent that it is necessary, proportionate and reasonable in all the circumstances.
- **Orders and Instructions:** Police officers only give and carry out lawful orders and instructions. Police officers abide by police regulations, force policies and lawful orders.
- **Duties and Responsibilities:** Police officers are diligent in the exercise of their duties and responsibilities.
- **Confidentiality:** Police officers treat information with respect and access or disclose it only in the proper course of police duties.

- **Fitness for Duty:** Police officers when on duty or presenting themselves for duty are fit to carry out their duties and responsibilities.
- **Discreditable Conduct:** Police officers behave in a manner which does not discredit the police service or undermine public confidence, whether on or off duty. Police officers report any action taken against them for a criminal offence, conditions imposed by a court or the receipt of any penalty notice.
- **Off-duty conduct:** Even when off duty, police officers do not behave in a manner that discredits the police service or undermines public confidence.
- **Challenging and Reporting Improper Conduct:** Police officers report, challenge or take action against the conduct of colleagues which has fallen below the standards of professional behaviour expected.

Misconduct Procedures

For more detail about the misconduct procedures generally, and the possible outcomes of the misconduct meeting / misconduct hearings, you should refer to the Performance, Conduct and Standards of Professional Behaviour on-line reference tool. This can be found on <http://mle.ncalt.com>

Complaint cases

Where the conduct is linked to a complaint, the appropriate authority is required to follow the provisions in the Police Reform Act 2002, the accompanying Police (Complaints and Misconduct) Regulations 2004 as amended and the Independent Police Complaints Commission (IPCC) statutory guidance which set out how complaints by members of the public are to be dealt with.

Complaint - Section 12 Police Reform Act 2002

A complaint about the conduct of a person serving with the police which is made (whether in writing or otherwise) by:

- a) **A member of the public** who claims to be the person in relation to whom the conduct took place;
- b) **A member of the public** not falling within paragraph (a) who claims to have been adversely affected by the conduct;
- c) **A member of the public** who claims to have witnessed the conduct;

d) **A person acting on behalf of a person falling within any of paragraphs (a) to (c).**

An officer does not need to be on duty for someone to make a complaint about them.

A complaint about conduct may be dealt with by:

- local resolution
- an official investigation (by the home or outside force, sometimes under the supervision or management of the IPCC, or by the IPCC's own investigators)

Unsatisfactory performance procedures

The misconduct procedures should not be used as a means of dealing with unsatisfactory performance. Separate unsatisfactory performance procedures, outlined in the Police (Performance) Regulations 2008, exist to deal with issues of individual unsatisfactory **performance** and **attendance**. These unsatisfactory performance procedures are designed to deal with officers whose work performance rather than conduct is unsatisfactory.

Regulation 4 - Police (Performance) Regulations 2008

“unsatisfactory performance” and “unsatisfactory attendance” means an inability or failure of a police officer to perform the duties of the role or rank he or she is currently undertaking to a satisfactory standard or level.

There are potentially three stages to the unsatisfactory performance procedures, each of which involves a different meeting composition and possible outcomes.

Refer to <http://mle.ncalt.com> for more details about **misconduct** linked to a complaint and **unsatisfactory performance** procedures.

Explosives Awareness/Bomb Alert (LPG1_4_15) v1.00

Bomb Threat

Investigate and Assess – always treat as genuine until proven otherwise.

Suspect IED Found

- **Do not touch**
- **Get Back:** Public and self to safe area
- **Inform:** Colleagues, duty officer, communications centre

Do not use your airwave terminal or mobile phone within 15 metres of a suspect device. Vehicle terminals must not be used within 50 metres.

BOMB ALERT

Building	Is it political or controversial or is it a building of public interest?
Occupiers	Who lives or works or travels there?
Method of search	Listen to the officer in charge
Back off	Beware secondary devices – be observant
Accurate information	Inform communications centre, duty officer. Accuracy, brevity, clarity (ABC)
Locate	Suspects, informant and witnesses. Obtain details, keep safe
Evacuate	Seek advice first if possible, you may have to take immediate action yourself
Rendezvous point (RVP)	First officer establishes, informs and searches RVP
Tape Off	100 metres minimum – for small items e.g. briefcase 200 metres minimum – for larger items up to cars 400 metres minimum – for vans and HGVs

Cordons

Police officers may designate cordoned area – record time of imposing in writing and then inform superintendent.

Limits of cordoned area must be clearly marked.

Police officer and PCSO Powers:

- Order person to leave cordoned area, nearby premises or move vehicle
- Arrange for removal or moving of vehicle
- Prohibit or restrict access to a cordoned area by pedestrians or vehicles

A person is guilty of an offence if he/she fails to comply with an order, prohibition or restriction imposed under this section.

There is a defence if a person can prove that he/she had a reasonable excuse for his/her failure to comply.

Triable summarily - Power of arrest without warrant – constables only

Counter Terrorism (LPG1_4_16) v1.02

Terrorism means the use or threat of action which:

- involves serious violence against a person
- involves serious damage to property
- endangers a person's life, other than that of the person committing the action
- creates a serious risk to the health or safety of the public or a section of the public, or
- is designed seriously to interfere with or seriously to disrupt an electronic system and
- the use or threat is designed to influence the government or an international governmental organisation (e.g. the U.N.) or to intimidate the public or a section of the public. and
- the use or threat is made for the purpose of advancing a political, racial, religious or ideological cause

It is not possible to identify any specific community as being particularly at risk of a terrorist attack. It is also important that we do not demonise or associate any particular community with terrorism.

There is a proven link between terrorism and criminality. A number of common themes in the nature of criminality involved have been identified:

- fraudulent entry into the UK
- use of cloned credit cards for fraud
- sale of cloned credit cards
- use of cloned cards for clandestine communications
- multiple identities
- vehicle crime involving high value vehicles

It is this type of low level criminal activity that you may be required to investigate. Terrorists do not undertake this type of criminality for personal gain. They do not purchase drugs or spend money on a lavish lifestyle. They live a very austere existence.

When you suspect crime and terrorist activity, you should arrest for the substantive offence, i.e. the fraud or theft, rather than using the Terrorism Act 2000.

Research has also identified a series of **Terrorist Vehicle Key Indicators**

- vehicles are old or in poor condition
- bought at auction
- not registered with DVLA in genuine names
- inside the vehicle –
 - quantities of clothing and electrical equipment
 - store vouchers
 - plastic cards
 - identity documents e.g. utility bills (forged)
 - passports
 - parking tickets

Combating terrorism is a sustainable objective in force's annual policing plans. There are several ongoing national operations to counter terrorism.

You should be aware of the **intelligence cycle** and your local force procedures in relation to the submission and dissemination of intelligence.

The primary functions of officers at the scene of a terrorist incident are to:

- manage the scene so that people are protected from further danger and the emergency rescue services can do their job
- preserve evidence to bring the offenders to justice

Remember your safety and that of your colleagues is paramount.

You should be aware of what to do if you encounter a:

- **Transporter** of explosives.
- **Person Borne Improvised Explosive Device (PBIED)** e.g. suicide bomber.

There is a threat that terrorist groups may use chemical, biological, radiological or nuclear material (CBRN). However terrorists are more likely to continue to use more conventional explosives, as they are easier to obtain and use. You should always consider the nature of the incident to which you are responding.

Safety Triggers for Emergency Personnel or STEP 123.

Guidelines for persons collapsing in the street

- person collapsed and no apparent reason – normal response
- persons collapsed at the same time and location with no apparent reason or logical explanation or cause – consider further investigation before proceeding to the scene
- or more persons collapsed at the same time and location, with no apparent reason or logical explanation or cause – **do not proceed, stand off and obtain further information and assess**

You should be aware of factors that may indicate an attack by the following means:

- chemical agents
- biological agent
- radiological and nuclear

CBRN – Health and Safety

If, after an evaluation of the incident, there is a credible CBRN threat, it is important that you do not over react. You must remain calm:

- do not proceed to the scene
- go to a safe place uphill and upwind of the scene
- do not involve yourself in rescue work
- do not touch anything or you may become a casualty
- consider setting up a cordon

Section 43 Terrorism Act 2000 Power to Stop and Search People

Under section 43 of the Terrorism Act 2000 a police officer may stop and search a person they reasonably suspect to be a terrorist, to discover whether that

person has in their possession anything which may constitute evidence that they are a terrorist.

- This power can be exercised at any time and in any location when the threshold of reasonable suspicion that the person is a terrorist is met
- No specific authorisation is required
- Reasonable suspicion has same meaning as section 1 of PACE
- The constable does not need to be in uniform
- The constable must be of the same sex as the person who they are searching
- A constable who has the powers of a constable in one part of the UK may exercise a power under this section in any part of the UK
- A constable cannot require a person being searched to remove any item of clothing in public except an outer coat, a jacket or gloves
- A constable may seize and retain anything discovered in the course of a search of a person which he reasonably suspects may constitute evidence that the person is a terrorist

The definition of **'terrorist'** is complex. Under section 40(1)(b) of the 2000 Act 'terrorist' means that they are or have been concerned in the commission, preparation or instigation of acts of terrorism. The definition of a terrorist includes people who belong to, support or fund raise for a proscribed organisation. Examples of proscribed organisations are Islam4uk and Al-Ghurabaa. The list of proscribed organisations grows regularly as groups appear to reform under a new name once they are proscribed (banned).

Section 47A Stop and Search Vehicles and People

This concerns authorisation to use Section 47A Terrorism Act 2000 search powers in specified areas or places. Under this section a police officer not below the rank of Assistant Chief Constable (Commander in the City of London or Metropolitan Police District) can authorise the use of special stop and search powers if he or she reasonably suspects that an act of terrorism will take place **and** considers the authorisation of powers is necessary to prevent such an act.

An authorisation given under section 47A authorises any **constable in uniform** to stop a pedestrian or vehicle (in an area or at a place specified in the

authorisation) and to search: the pedestrian, anything carried by the pedestrian or the vehicle, the driver of the vehicle, a passenger in the vehicle and anything in or on the vehicle or carried by the driver or passenger for evidence that the vehicle is being used for the purposes of terrorism or that any of the individuals are terrorists.

Police Community Support Officers (PCSO) - Paragraph 15 of Part 1 of Schedule 4 of the Police Reform Act 2002 (c.30) extends some of the special powers of stop and search to designated Police Community Support Officers (PCSO). Authorising officers may consider whether to include PCSO's within a stop and search authorised under Section 47A. When a PCSO on duty and in uniform has been conferred powers under section 47A Terrorism Act 2000 designated powers and the use of Section 47A powers have been authorised in that area they may: stop any pedestrian, stop any vehicle and search anything carried by a pedestrian, search anything carried by a driver or passenger, search any vehicle and search anything on or in a vehicle.

Photography and Section 43 Terrorism Act 2000

Section 43 terrorism Act 2000 **does not** prohibit the taking of photographs, film or digital images in a public place. The taking of photographs should not ordinarily, in itself, give rise to reasonable suspicion that the person taking the photographs is a terrorist and members of the public and the press **should not** be prevented from doing so. A police officer can only stop and search a person they **reasonably suspect to be a terrorist** under this power.

- Digital images can be viewed as part of a search under section 43 of the Terrorism Act 2000 to discover whether the person has in their possession anything which may constitute evidence that they are a terrorist
- When conducting a search under section 43, cameras, film and memory cards can be seized if the officer reasonably suspects that these may constitute evidence that the person is a terrorist
- Officers do not have the power to delete images or destroy film
- Once cameras or other devices are seized, to preserve evidence, officers should not normally attempt to examine them further

- Seized cameras and other devices should be left in the state they were found in and forwarded to appropriately trained forensic staff for forensic examination

International terrorism Al Qaeda and similar groups are the main international terrorist threat to the UK. They aim to inflict mass casualties and are motivated by a violent extremist ideology.

Types of attack

- Physical Assault
- Shooting
- Explosive devices
- Thrown or projected devices
- CBRN attack
- Bomb threat including hoax threat to disrupt an event or services

Asset-Freezing

The Al-Qaida and Taliban (Asset-Freezing) Regulations 2010 make provisions relating to restrictive measures directed against certain persons and entities associated with the late Osama bin Laden, the Al-Qaida Network and the Taliban. The measures include the freezing of funds, financial assets and economic resources of such persons and ensuring that any funds, financial assets and economic resources are not made available to them.

The Regulations also introduce a number of related offences, including:

- Dealing with funds or economic resources (Reg.3)
- Making funds or economic resources available (Reg.4)
- Circumventing prohibitions (Reg. 6)

All three of the above offences are punishable as follows:

- Conviction on indictment – 2 years imprisonment, a fine or both
- Summary conviction – 3 months imprisonment, a fine or both.

CONTEST strategy

The aim of 'CONTEST' is to reduce the risk to the United Kingdom and its interests overseas from international terrorism, so that people can go about their lives freely and with confidence.

TICs - Offences Taken Into Consideration (LPG1_4_17) v1.00

A defendant may ask a court passing sentence to take into consideration other offences of a similar nature to the one(s) to which their appearance relates. These offences are not charged and are often referred to as TICs.

This balance can only be achieved by obtaining a thorough knowledge of the procedures and best practice surrounding the requesting of admissions, gathering evidence, recording and presenting TICs to a court.

Offences taken into consideration (TICs)

There are several opportunities to raise the subject of TICs with an individual:

<ul style="list-style-type: none"> • arrival at a police station • orally or via posters • booking into custody, via a notice • pre interview briefing 	<ul style="list-style-type: none"> • the interview • prior to court • at court • post court
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Benefits of TICs include:

- the victim has an opportunity to claim compensation
- provides the court with a more accurate picture of the offending
- court time is saved
- the defendant receives credit for early admission and is more likely to receive a lesser sentence than if charged
- the defendant 'clears the slate' of outstanding offences. There is no risk of subsequent prosecution
- valuable intelligence may be gained and detection rates increased

Procedures-Arrival at a police station and booking into custody

It is acceptable to draw the attention of a person to TIC procedures orally or by showing them posters or notices. However,

- no inducements should be made to encourage the admission of such offences
- it is not acceptable to discuss bail or the number of offences that may be charged or TIC'd
- if the suspect has a legal representative, they should be advised to consult with them in order to obtain advice

Pre-interview briefing

If the suspect has been shown a notice concerning TICs their legal representative should be informed. You should:

- state that you plan to raise the subject in interview immediately after the interview for the primary offence(s) has been completed
- you may choose to disclose information that supports your belief that further offences may have been committed

The interview

After completing the PEACE model for the primary offences, the following procedures should be implemented:

- the TIC procedure should be fully explained using a notice
- the suspect must be cautioned in full
- admissions must be probed in detail to support a prosecution (PEACE model)
- no need to arrest for each TIC offence, but the suspect should be reminded they are still under arrest and that the caution still applies
- the procedure must be either audio or audio-visually recorded

Post-interview

When a full interview has been carried out all the offences can be considered with a view to determining which offences may be charged and which may be TIC'd. The following points should be considered:

- the primary offence must be charged
- offences taken into consideration should be similar to the primary offence
- charges should reflect the seriousness and extent of the offending

It is always wise to take advice from the following sources prior to preparing charges and TICs: Crown Prosecution Service/Custody Officer/PIP Level 2 Investigator

Charging and listing TICs

The MG18 should be completed and prepared along with the charges:

- the suspect should be invited to sign the MG18
- force policy and local procedures should be adhered to

Additional information with regard to TIC procedures in respect of post charge, post court, compensation and further advice with completion of the forms, together with stated cases and Human Rights issues are briefly discussed in LPG1_4_17_SN.

Penalty notice procedure (LPG1_4_18) v1.00

Penalty notices for disorder (PND's) provide the police with an effective and visible way of responding to low-level disorder and crime. They can be issued on the street by a police officer or PCSO in uniform or at a police station by an authorised person.

Some of the offences that can be dealt with via a penalty notice for disorder. Offences marked * have additional specific guidance.

Upper tier

- Retail theft *
- Criminal damage *
- Possession of cannabis *
- Wasting police time or giving a false report
- Harassment, alarm or distress (Sec 5 Public Order Act 1986)
- Throwing fireworks in a thoroughfare
- Drunk and disorderly in a public place
- Purchase of alcohol for a person under 18

Lower tier

- Drunk in a highway
- Littering
- Throwing stones at a train
- Purchase of alcohol by a person under 18

Whilst the Act states that a PND can be issued to any person over the age of 10, this only applies in certain pilot areas. In police force areas outside of the pilot areas, **PND's are only issued to those aged 16 and over**. An agreement on a national roll-out for under 16's has not yet been made.

Note: PND's for possession of cannabis is **not** appropriate for offenders under 18 years old.

Additional guidance for Retail Theft and Criminal Damage PND issue

Revised guidance has been issued in 2009 in view of concerns over instances of inappropriate issue of PND's especially concerning repeat offenders and those with substance misuse problems.

1. PND's should **not** be issued for either retail theft or criminal damage where it is known that an offender is a substance mis-user.
2. PND for these offences should only be considered for low level first time offending where there are no **aggravating factors**.
3. Offenders who have recent convictions or who are the subject of live court orders such as a conditional discharge or community order for these offences should not be issued with a PND.

PND disposal may only be used for Criminal Damage up to a value of **£300**.

PND disposal may only be used for Theft for offences where:

- it involves 'theft from a shop'
- where the value of the stolen goods does not exceed **£100**
- property will have been recovered and remain fit for sale (exceptions include consumed such as drink or food)
- only one PND should **ever** be issued to an individual for retail theft
- PND's issued must be recorded on the PNC within 24 hours as it is a recordable offence

- PND disposal will **not** be appropriate for shop workers who steal from their employers as such behaviour is a breach of trust

Additional guidance for Cannabis Possession PND issue

PND's may be used for dealing with **adult** offenders found in possession of cannabis, and its derivatives, for personal use. Offenders who are under 18 years old should be dealt with under Section 65 of the Crime and Disorder Act 1998 which requires young people be considered for reprimand, final warning or prosecution **not** by way of PND.

Use your judgement and experience to assess whether the amount of drug possessed by the offender appears reasonable for personal use. The above process of escalation should not apply if you have reasonable grounds to suspect possession with the intent to supply; in that case, arrest is always appropriate

- If you confirm that a suspect has been issued with a PND for cannabis possession it **will not** be appropriate to issue a second one
- PND's issued must be recorded on the PNC as it is a recordable offence
- PND's **cannot** be issued for offences relating to any drug other than cannabis or cannabis derivatives

Three-stage escalation procedure for cannabis possession

Under ACPO Guidance there is a three-stage escalation procedure for cannabis possession under which it is expected that an offender will:

- receive a cannabis warning for a first possession offence
- receive a PND for a second offence
- be arrested for a third offence

Seizing evidence

Where it is decided to issue a PND, you should seize the cannabis as evidence of the offence; it should **not** be disposed of at the scene. If a recipient of a PND elects to have the matter heard at court the drug will be treated as evidence in the normal way.

Aggravating Factors

PND disposal should only be considered for low level first time offending where there are **no** aggravating factors. The aggravating factors adopted by ACPO are:

1. Smoking cannabis in a public place or view - no requirement to have received a complaint from a member of the public.
2. Local identified policing problem – eg. a disorder hotspot using NIM processes.
3. Protecting young people – e.g. a person is in possession of cannabis inside or in the vicinity of premises frequented by young people.
4. Repeat or Persistent Offenders – e.g. someone who is repeatedly dealt with for a variety of criminal offences or anti-social behaviour who is known locally, continually commits offences and has complete disregard for the law, unlikely to benefit from either a Cannabis Warning or PND.
5. Impact on the offender: Does this person understand the seriousness of this offence? Will this person benefit from this course of action?

Issuing a Penalty Notice for Disorder

Completing the form

Penalty Notices for Disorder forms differ from force to force - obtain a blank PND from your force and familiarise yourself with it.

- complete all the relevant fields
- the time the alleged offence was committed should be inserted **not** the time the penalty notice was issued
- invite offenders to sign the notice in the appropriate field
- give to the suspect the section which includes full details of the action that they should take
- if a person fails or refuses to give sufficient details to enable the issue of a PND that person may be detained or arrested
- attach any MG11(cont) or additional statements already obtained from witnesses to the PND prior to submission to the central ticket office
- make a corresponding entry in your pocket notebook - there is no requirement to duplicate **all** the evidence contained on the PND
- remember to use the 'when questioned' and 'now' cautions appropriately

- ensure you obtain and enter a unique reference number (URN) when issuing a PND for a recordable offence

Penalty Notices for disorder completed but not issued

Where a completed or part completed penalty notice is subsequently not issued for any reason (e.g. offender refuses to accept) the penalty notice will be clearly marked 'VOID' and forwarded, through your first line supervisor, to the Central Ticket Office (CTO).

When a Penalty Notice has been issued

- the recipient must either pay the amount shown on the notice in full or request a court hearing within **21 days of issue**
- failure to pay the penalty or request a hearing may result in a fine of one-and-a-half times the penalty amount
- payment of the penalty by the recipient discharges their liability to conviction for the offence, involves no admission of guilt and removes the possibility of creating a record of criminal conviction
- information regarding the issue of a PND may be recorded on PNC or local intelligence systems. This does not constitute a criminal record but is accessible for police information

Scenes of major crime (LPG1_4_19) v1.00

The objectives of any police officer at the scene of serious crime are the same whether they are the constable on the beat or the detective superintendent.

They are to:

1. preserve life
2. deal with victim(s) and locate other victims
3. arrest the offender
4. preserve the crime scene

Three arms of investigation

The investigation of any crime can be divided into three areas, known as the arms of the investigation. These are:

1. looking for witnesses,
2. looking for physical evidence,
3. use of crime solving information.

Forensic Science

The term 'forensic science' means 'the application of scientific matters relevant to the law'.

Physical evidence found at the scenes of crime, is referred to as forensic evidence and is normally examined at Forensic Science Service Laboratory by specialist forensic scientists

Rules for preservation of scenes of crime

There are four key principles or rules involved in preventing loss of evidence from a scene.

You must prevent:

- M**ovement of exhibits
- E**vidence being obliterated
- A**dditional material being added
- L**oss of evidence

Road checks (LPG1_4_20) v1.00

The power to stop vehicles is generally provided under Section 163 of the Road Traffic Act (RTA) 1988. Having caused a vehicle to stop, there are certain powers which may be employed by a police officer or other authorised people.

Amongst these powers, are the powers set out in the Police and Criminal Evidence Act (PACE) 1984 section 4 that permit road checks.

This is where the power under section 163 RTA 1988 is used, in any locality, in such a way, as to stop all vehicles or vehicles selected by a criterion.

Criterion

Section 4(1) of PACE 1984 allows road checks by police officers (and suitably designated PCSOs) for the purpose of ascertaining whether a vehicle is carrying:

- a person who has committed an offence other than a road traffic offence or a vehicle excise offence
- a person who is a witness to such an offence
- a person intending to commit such an offence, or
- a person who is unlawfully at large

Superintendent's written authority is required for such a check, a police officer of lower rank may authorise a check if it is required urgently and required for the purposes listed above.

Breach of the Peace (LPG1_5_01) v1.02

The Queen's Peace

That public peace and good order the preservation of which Her Majesty's subjects may expect to be maintained so that they may live their lives without undue interference from others.

Breach of the Peace

There is a Breach of the Peace whenever and wherever:

- (a) harm is **actually** or is **likely** to be done, to a person, whether by the conduct of the person against whom a Breach of the Peace is alleged or by someone whom it provokes; or
- (b) harm is **actually** or is **likely** to be done, to a person's property in his presence
- (c) a person is genuinely in fear of harm to himself or his property in his presence, as a result of an assault, affray, riot, unlawful assembly or other disturbance

A Breach of the Peace can be committed in any place public or private. A constable has a power of entry to prevent or deal with a Breach of the Peace.

Power of Arrest (Common Law)

A constable or any person may arrest without warrant any person where:

- they commit a Breach of the Peace in the presence of the person arresting
- the arresting person reasonably believes that such a breach will be committed in the immediate future by the arrested person although he has not yet committed any breach, or
- if it is reasonably and honestly believed that a Breach of the Peace has been committed and it is reasonably believed that a renewal of it is threatened by the arrested person, (an idle threat will not suffice).

When conducting an arrest, all the circumstances must be taken into account. Action must be Proportionate Lawful Appropriate and Necessary.

It is important to remember that any threat of a Breach of the Peace **MUST** be real and imminent, otherwise the arrest could be held to be unlawful.

Police action at civil disputes (LPG1_5_02) v1.03

Civil – This term refers to incidents in which there is a disagreement between people, but where no crime is involved, for example an argument over a disputed debt or between neighbours.

Civil disputes should not be confused with Domestic disputes. If there is no longer any risk of a Breach of the Peace occurring, the person may be de-arrested. In which case, the reasons for arrest and subsequent de-arrest should be fully recorded.

Officer roles in disputes

The way you proceed will be based upon your assessment of factors such as those listed above. The roles described below indicate the range of responses appropriate to a variety of disputes.

It is important to listen to both parties; however you must remain impartial at all times. Although not strictly a police matter, it is possible to advise people to contact other agencies that may be able to assist, such as Local Authorities, Solicitors, Citizens advice bureau etc. It may also be appropriate to exchange the names and addresses of all parties. It is recommended that you make a report of the incident as you may be called upon to give evidence at any subsequent civil case in the County Court.

If you are unable to help, then tell the parties involved. It is quite acceptable to say that the incident to which you have been called is not a police matter, and as such there is little or nothing that you can do.

- (1) Hire Purchase Agreements - a bailiff with a Warrant can use force to seize goods. In all other cases, regardless of whether a Court Order is in force (not Warrant). the person will retain the goods unless they are willingly handed over. See section on Bailiffs.
- (2) Disputes over food and goods - refer the complainant to Trading Standards at the Local Authority.

Civil Trespass (LPG1_5_03) v1.03

Trespass is not a criminal offence except in certain specified places or where it is accompanied by other acts which make it so. Where there are no such considerations it is known as a civil trespass. In spite of trespass not being an offence officers are regularly called upon to deal with such incidents and therefore you must be able to recognise whether or not a person is improperly on premises. Your power in relation to civil trespass is confined to preventing a Breach of the Peace.

We will now look at who is entitled to be on premises or land so that you will be in a better position to take action when called upon.

- private dwellings (houses, flats, etc.) - the owner or occupier
- shops, cinemas, and other commercial premises normally open to the public. The owner, manager or any employee acting on behalf of the owner or manager

- libraries, swimming pools, parks and other publicly owned places normally open to the public - usually any employee of the council, etc. responsible for maintaining the facility
- business premises, schools and other non-residential premises not open to the public - the owner, head teacher, manager, secretary, or other responsible employee. It is only at the request of such lawful occupier or representative that officers are entitled to act

The lawful owner

The lawful occupier has the right to exclude anyone from their premises who they do not wish to be there.

Officer action

What you, or any other ordinary person in the street, may do is assist the lawful occupier in ejecting the trespasser. In this situation you have no more powers or privileges than a member of the public. Providing that there is no disturbance or breach of the peace, the trespasser must be released as soon as they reach the street.

Sudden death (LPG1_5_04) v1.00

'Sudden death' is a police term for any death which involves some form of police action. It may not be sudden at all, in that the deceased may have been ill for some time, but because of circumstances, some enquiry is necessary. There are some occasions where the circumstances suggest that perhaps the death was not as natural or accidental as it first appears.

When dealing with sudden deaths you must:

- be aware of and observe procedures for both suspicious and non-suspicious deaths
- be careful when dealing with property
- ensure that you are aware of all the facts so that you can be in a position to help those empowered to decide on the cause of death
- be able to recognise and collect evidence and produce a report which will be a clear and concise record of what has occurred

- think about health and safety issues. There may be dangers from blood, dangers from drug paraphernalia or noxious gases at the scene

Ensure you inform your supervisor immediately and follow the procedures if:

- you suspect suicide or attempted suicide
- you attend a sudden infant death or sudden unexpected death in childhood
- you attend a possible work place related death

Essential details for the sudden death form are:

- name, address and date and place of birth of the deceased
- time, day, date and place of death
- identity of the person who found the deceased, together with information as to how, when and where the body was found
- identity of person who identified the deceased
- medical history of the deceased (if known) and the name of the deceased person's doctor
- identity of the person who last saw the deceased alive, when and where deceased was last seen, together with observations as to medical condition, for example any complaint of feeling unwell
- evidence of neglect, particularly in the case of children
- marks on the body
- identity of the doctor confirming death
- identity of others who can give useful information
- place where body now lies

Informing the bereaved of a death

Recent research has suggested that many bereaved families felt that the police did not give them clear information and that some comments made by police officers added to their fears about the circumstances of the death.

It is important to realise that your attitude and actions have a profound effect upon those with whom you come into contact, particularly at such stressful times as bereavement, and any insensitivity may make it more difficult for them to

come to terms with their loss. How the news of someone's death was delivered and how they were subsequently dealt with may become part of a memory that will lead to a speedier healing process.

Other support agencies

Several organisations exist which may be able to offer support to the bereaved in a range of circumstances. Find out about your force policy and the services available in your area.

CRUSE - Bereavement Care: a counselling and advisory service for any bereavement.

Victim Support: offers support to the bereaved in cases of murder and, in some areas, in cases of road traffic collisions.

SAMM (Support After Manslaughter and Murder): a self-help group.

TCF (The Compassionate Friends): a support network for parents who have suffered the loss of a child.

The Foundation for the Study of Infant Deaths: a support group of parents who have experienced sudden infant death syndrome (SIDS).

Samaritans: offers telephone support through a 'listening' service, rather than specific advice.

Road Peace: a charity which supports families of road death victims.

Department of Social Security: offers practical advice in a booklet entitled 'What to do after a Death'.

Illness in the street (LPG1_5_05) v1.00

While on patrol, you are likely to come across people who have been taken ill or suffering from an injury. Incidents may range from persons who are simply feeling unwell to those who are suffering a life threatening condition.

In such cases you should:

- try to discover the nature of the illness
- call an ambulance if necessary
- render first aid
- establish the identity of the person
- ensure that relatives are notified
- take steps to safeguard the person's personal property

When dealing with a case of loss of memory in a public place, your action should be to:

- establish whether the person is injured or suffering from concussion
- call for an ambulance if necessary
- render first aid
- ensure that the person receives any necessary medical treatment
- safeguard the person's personal property
- obtain details of any witnesses

Obtain the **identity** of the person if possible. In the first instance you should ask them or anyone with them, failing this you should:

- examine any personal documents found in the person's clothing or belongings. If necessary, you can do this at hospital
- check the wanted/missing persons index on the PNC
- ask the person simple questions to glean any information you can that may narrow your search
- ask people nearby if they have seen or heard anything that may give clues to the identity of the person
- consider CCTV if available to track the person's movements prior to you attending
- report details to a supervising officer for a decision to be made about circulation of the description to force personnel and to the public

There are occasions when you may need to accompany the person to the hospital:

- if they are likely to die (to provide continuity)
- to gather evidence (if they are a victim)

Should you find yourself at the scene of a major incident, you should consider the following points:

- Save Life and Limb
- Arrest the person responsible
- Inform a supervisor
- Preserve evidence
- Commence a scene log
- Gather witnesses

Lost and found property (LPG1_5_06) v1.00

It is widely accepted by the public that if property is lost or found it is dealt with by the police.

You should be aware of the need to record the event accurately and ensure that the property is stored or returned to the finder in accordance with your local policy. A detailed description of any items should be obtained.

A person finding property is not legally required either to hand it in, or to report finding it to the police, but they must take reasonable steps to find the owner. If they fail to do so they may commit an offence of theft. Reasonable steps may be to notify or hand the property to the police. After taking reasonable steps, if the owner cannot be traced, the finder may have a claim on the property.

Our duties in respect of lost property are to:

- keep accurate records
- make reasonable efforts to identify the owner of the property

When a report of lost property is made you must, in addition to the usual notes taken in your pocket notebook, include the following:

- name and address of owner
- when and where lost
- detailed description of property

When property that may be hazardous or dangerous to others (e.g. firearms or medication/drugs) is reported lost, you should notify a supervisor and take immediate steps to protect the public.

When found property is handed to you at a police station you should complete the found property register. If you are on patrol in addition to the usual notes such as finder's details include the following:

- time, day, date and place found
- detailed description of property
- location of property if not handed in

As an officer you have no personal claim to any property you find whether you are on or off duty.

Social effects of alcohol (LPG1_5_08) v1.00

It has been suggested that alcohol is a factor in approximately 50% of all crime, and as much as 90% of offences involving public disorder can be linked to its effects. Here are some powers in relation to alcohol related offences:

Section 179 of the Licensing Act 2003 concerns the right of entry to investigate licensable activities - constables and authorised persons.

An officer may enter any premises in respect of which they have reason to believe that offences under the Act have been, are being or are about to be committed.

Section 143 of the Licensing Act 2003 – Failure to leave a licensed premises – constables only. Person who is drunk and disorderly commits a summary offence if they fail, without reasonable excuse, to leave the relevant premises or they enter or attempt to enter after being requested not to enter the relevant premises at the request of:

- a police constable
- any person who works at the premises, whether paid or unpaid, in a capacity which authorises them to make such a request
- the premises licence holder

- or the designated premises supervisor (if any) under the premises licence

Section 180 of the Licensing Act 2003 concerns a right of entry to investigate offences.

An officer may enter and search any premises in respect of which they have reason to believe that an offence under this Act has been, is being or is about to be committed.

Alcohol consumption in designated public places

Failing to comply with requirement in designated public place – section 12(4) Criminal Justice and Police Act 2001

If an officer reasonably believes that a person is, or has been, consuming alcohol in a designated public place or intends to consume alcohol in such a place, the constable may require the person concerned:

1. not to consume in that place anything which is, or which the constable reasonably believes to be, alcohol
2. to surrender anything in his possession which is, or which the constable reasonably believes to be, alcohol or a container for such liquor

Officers should inform the person concerned that failure to comply with his/her request, as above, without reasonable excuse, is a summary offence. **Power of arrest without warrant – constables only**

PCSOs have the power to confiscate alcohol in given circumstances.

Railways (LPG1_5_09) v1.00

The aim when dealing with incidents must be the safety of all persons. Officers must always consider alternative means of capturing a suspect who risk their own lives by running on to or near railway lines. Officers must abandon or discontinue any such pursuits before putting themselves and others at unnecessary risk.

Trespassing on a railway

Section 55 of the British Transport Commission Act 1949 states:

If any person wilfully trespasses on any railway or on any of the stations or other works or premises connected with it and refuses to quit it on request by any officer or agent of the railway company, that person and anyone aiding or assisting him will (commit an offence).

Any person who trespasses on any railway lines, sidings, railway embankments, tunnels, cuttings or similar works belonging to, leased to or worked by the British Railways Board or London Regional Transport or on other land of the Board of London Regional Transport, in dangerous proximity to such lines or other works or to any electrical apparatus used in connection with the railway is liable.

Stone throwing on railways

Section 56 of the British Transport Commission Act 1949 states:

It is an offence, subject to a penalty, unlawfully to throw at any rolling stock or apparatus on any railway belonging to, leased to, or worked by the British Railways Board or London Regional Transport any stone or thing likely to damage or injure persons or property.

Liquor Licensing (LPG1_5_10) v1.00

Being found drunk – Section 12 Licensing Act 1872

The Licensing Act 1872, Section 12 states that it is:

‘an offence for any person to be found drunk in a highway or other public place, whether a building or not, or on licensed premises’

Drunk and Disorderly – Section 91(1) Criminal Justice Act 1967

The Criminal Justice Act 1967, Section 91(1) states that it is:

‘an offence for any person who whilst drunk in a public place to be guilty of disorderly behaviour’

Licensing objectives

The Licensing Act 2003 provides clear focus on the promotion of four statutory objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance; and
- the protection of children from harm

Section 179 of the Licensing Act 2003 concerns the right of entry to investigate licensable activities.

Where a constable or an authorised person has reason to believe that any premises are being, or are about to be, used for a licensable activity, he may enter the premises with a view to seeing whether the activity is being, or is to be, carried on under and in accordance with an authorisation.

Section 180 of the Licensing Act 2003 concerns a right of entry to investigate offences.

A constable may enter and search any premises in respect of which he has reason to believe that an offence under this Act has been, is being or is about to be committed.

Unauthorised licensable activities

Section 136 of the Licensing Act 2003 makes it a **summary offence*** for a person to carry on or attempt to carry on a licensable activity without the authorisation provided by, as appropriate, a premises licence, a club premises certificate or a temporary event notice.

Exposing alcohol for unauthorised sale

Section 137 of the Licensing Act 2003 makes it a **summary offence*** for a person to expose alcohol for sale by retail in circumstances where the sale would not be under and in accordance with a premises licence, club premises certificate or a temporary event notice.

Keeping alcohol on premises for unauthorised sale

Section 138 of the Licensing Act 2003 makes it a **summary offence*** to keep alcohol on premises with the intention of selling it by retail or supplying it (by or on behalf of a club or to the order of a member of a club) unless that sale or supply would be under and in accordance with an authorisation.

Allowing disorderly conduct on licensed premises

Section 140 of the Licensing Act 2003 makes it a **summary offence*** to knowingly allow disorderly conduct on relevant premises.

*Note – Power of arrest without warrant for a summary offence is constable only.

The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010

These conditions have been introduced to link into the licensing objectives within the Licensing Act 2003, listed above.

The restrictions can be found in the full lesson notes and are summarised as:

- Irresponsible promotions
- Directly dispensed alcohol
- Free tap water
- Age verification
- Minimum measures available

For further offences relating to drunkenness see Liquor Licensing LPG1_5_10 Student Notes

National Intelligence Model (LPG1_7_02) v1.00

The National Intelligence Model (NIM) is a model for policing that assists senior managers to formulate strategic direction, make tactical resourcing decisions and manage risk.

Every member of staff has a role to play in making the NIM work. It enables staff to:

- receive better tasking and direction
- contribute to effective policing by collecting and recording information which is used to create a greater understanding of crime and non-crime problems
- provide a better service to the public

Benefits of the NIM

- provides a greater consistency of policing across the UK
- allows operational strategies to focus on key priorities
- allows more officers to focus on solving priority problems and targeting the most active offenders
- achieves greater compliance with human rights legislation and the Regulation of Investigatory Powers Act 2000 (RIPA)
- informs the management of risk
- provides more informed business planning and a greater link to operational policing issues
- improves the direction and briefing of patrols
- reduces rates of persistent offenders through targeting the most prolific
- improves integration with partner agencies

The three levels of the NIM

- Level 1 – deals with crime, incidents and neighbourhood priorities occurring at a local level Basic Command Unit (BCU)
- Level 2 – deals with issues affecting a group of BCU's, neighbouring forces or a group of forces
- Level 3 – is dealt with by the Serious Organised Crime Agency (SOCA) which operates on a national or international scale

How the NIM works

Certain key assets must be in place at each level to enable intelligence to be produced, otherwise the intelligence function will not operate efficiently. They are:

- knowledge assets
- system assets
- source assets
- people assets

Four key intelligence products are produced to drive policing through the tasking and co-ordination process:

- strategic assessment – gives overview of problems
- tactical assessment – business of tasking and co-ordination group
- problem profile – problem areas
- subject profile – problem people

The tasking and co-ordination process takes place strategically and tactically at each level. Information and intelligence flows between levels and between neighbourhood police forces and law enforcement agencies.

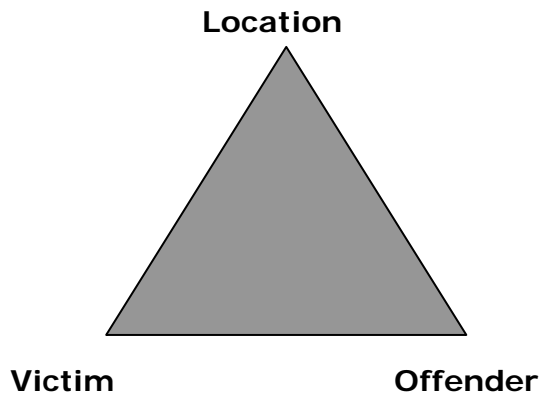
Problem solving methods (LPG1_7_03) v1.00

SARA is a model of process often undertaken as part of a problem solving approach in general and Problem Oriented Policing (POP). SARA ensures that a problem is fully identified and addressed.

The four stages of SARA are:

Scanning	spotting problems using knowledge, basic data and electronic mapping
Analysis	where the data collected in the scanning phases is used to identify the causes of the problem
Response	devising a solution
Assessment	looking back to see if the solution worked and what lessons can be learned

The Problem Analysis Triangle (PAT) is a tool that may be used to successfully develop a definition and consequent solution to a problem. It may be used independently or as part of the **analysis and response** stages of SARA. This is a simplified version of the model:



PAT breaks incidents down into three elements, all of which must be present for a crime or incident to occur.

- incident location
- caller or victim
- offender or source of the incident

Street ID (LPG1_7_04) v1.02

The **first description** given by a witness must be recorded accurately and in detail, in a visible and legible form as it will be supplied in writing to the suspect or their solicitor before any subsequent formal identification procedure. It is also required for disclosure and may be used as evidence in court. The first description must always be recorded before using any of the below identification procedures for an unknown suspect.

As soon as there is sufficient evidence to arrest the person, any additional witnesses must not take part in the Street Identification; instead they need to take part in one of the formal identification methods. If a witness identifies a suspect in a Street ID, the courts regard this as strong evidence and they need not take part in a further formal identification method.

A known suspect is when there is sufficient information known to the police to justify the arrest of a particular person for suspected involvement in the offence. For information on verifying the identity of known suspects, refer to **LPG 1_7_27 Identification** student notes.

When the identity of a **suspect is unknown**, the following identification procedures may be used:

Identification by photograph - PACE Codes of Practice requires that an officer of the rank of sergeant or above shall be responsible for supervising and directing the showing of photographs. You should contact your sergeant who will give you the necessary guidance before obtaining or showing photographs to a witness. See PACE Codes of Practice Code D 3.3 and Annex E.

Facial composite technique - This equipment is operated or procedure carried out by specialist staff, in line with PACE Codes of Practice. The technique should be used within 36 hours of the incident so an early referral to a specialist is essential. You should familiarise yourself with your force procedures with respect to this. You should familiarise yourself with the criteria that need to be met before the composite image is requested from a witness. More information can be found in PACE Codes of Practice.

Street identification - In accordance with the PACE Codes of Practice - Code D 3.2, a street identification is used only when you have no suspect, but believe that the offender may be at a particular location or neighbourhood.

The witness is asked if they can identify any person present as being the same person originally witnessed. You must not direct a witness to any individual unless, taking into account all the circumstances, this cannot be avoided. This does not prevent the witness being asked to look carefully at people who are around at the time, or to look towards a group or in a particular direction if this appears to be necessary. Where there is more than one witness, every effort should be made to keep them separate before and during any attempted identification.

Remember:

When obtaining descriptions, as well as completing statements from eye witnesses, the mnemonic ADVOKATE arising from R v Turnbull (1977) will assist in ensuring all relevant points are covered:

Amount of time under observation

Distance from the eyewitness to the person or incident

Visibility – including time of day, street lighting, etc.

Obstructions – was there anything obstructing the view?

Known or seen before – does witness know, or have they seen the suspect before?

Any reason to remember – anything specific that made the person or incident memorable?

Time lapse – how long since the witness last saw the suspect?

Errors or material discrepancies

Not all of these points will be applicable to every situation; however, you must consider each point and record those points that do apply.

Crime Solving Methods (LPG1_7_05) v1.00

When attending the scene of a crime, it is important that the Investigating Officer has as much information as possible to assist them in identifying potential witnesses and solving the crime.

Tracing witnesses: The majority of crime is not witnessed by the police; this means that you need to speak to as many people in the area as you can in an effort to establish whether they heard or saw anything which may assist you to locate a suspect.

Local newspapers: They are an invaluable source of contact with the local public and therefore an opportunity to appeal for witnesses to incidents and crimes. Usually, there is one officer at a police station responsible for supplying this information to the press. Find out who it is at your station.

Crimewatch UK: A nationwide television programme which appeals for witnesses to crimes. There is a formal procedure which forces should follow in order to have a crime included on the programme.

'Crimestoppers': Transmits appeals for information on local radio stations. Informants may earn a reward for the information they provide.

Road checks: (LPG1_4_20_QN)

Witness boards: Free standing boards which can be placed at the scene of a fatal/serious road traffic collision or serious crime.

Notice boards: Boards located outside police stations, used for appeals for information and witnesses.

Watch schemes: There may be a number of Neighbourhood Watch schemes operating in your police area. They comprise of a network of local residents who act as the eyes and ears of the police.

House to house enquiries: Normally carried out in respect of more serious crimes. The questions asked are predetermined in the form of a questionnaire. This ensures that everyone is asked the same questions.

Tracing suspects: Having traced your witnesses and identified a suspect there are a number of methods that an officer might utilise in order to trace the suspect :

Police National Computer: (LPG1_4_07_QN)

Local intelligence units: The analysis of information and intelligence is done by the Local Intelligence Units. Their material comes from crime reports, detention records, intelligence reports (5x5x5's), electoral rolls, premises searched records, stop and search records and from many other sources. They are able to connect crimes. It is possible that there are more details of those other connected crimes that could assist an investigating officer to solve your particular offence.

Method index: This index (located at the National Records Office) holds searchable records in relation to unnamed suspects by description and method

used, unsolved crimes by method used and nicknames including Citizen Band (CB) radio call signs.

Witness albums: Available for witnesses to view, under supervised conditions.

Other methods of tracing suspects include:

- photo-fit, E-fit and artists impressions
- section parades and briefings
- enquiries at adjoining stations
- planned observations
- circulations
- Police Gazette

Securing and Preserving Digital Evidence (LPG1_7_06) v1.00

Digital evidence is valuable and it should be treated in the same manner as traditional forensic evidence. It may exist on many different devices such as:

- computers
- mobile phones
- mp3 players
- cameras
- gaming machines
- memory cards
- USB drives

It is **important** that you are aware of how to **seize and preserve digital evidence**, should you come across it, and of how to exhibit items accurately.

Four principles ensure that digital evidence is 'preserved' during seizure and examination. In essence they are:

- no action should change data which may be relied upon in court
- a person must be competent to access original data and able to give evidence explaining the relevance and implications of their actions
- an audit trail or other record of all processes applied to computer-based electronic evidence should be created and preserved
- the person in charge of the investigation has overall responsibility for ensuring that the law and these principles are adhered to

The most important thing to remember is that any **interference with the digital device** or storage media could have a significant impact on its evidential value, therefore computers, phones or media should not be examined by an untrained person unless there is an **urgent** operational need.

You will encounter digital evidence at scenes of crime, in the possession of suspects and at premises. In some cases you may need to seek advice from your force specialists prior to recovering the evidence.

The National Mobile Phone Register (NMPR) allows officers to view ownership details of mobile handset owners if the owner has registered them via <http://www.immobilise.com>. It also allows officers to view if a phone that has been reported as stolen has been blocked by the UK network.

Mobile phones have a unique electronic serial number - **the International Mobile Equipment Identifier (IMEI)**. Officers can use the IMEI to check if a phone is reported lost or stolen at <http://thenmpr.com/> via a police networked computer.

E-mail evidence can be forensically retrieved from physical machines but investigators may wish to obtain them from a victim's computer system without delays or causing significant inconvenience to the victim. Printed copies of the e-mails, including full header information, in such circumstances would be sufficient to evidence the sending/receipt and content of the e-mail. E-mail retrievals need to be exhibited. Seek advice on how to obtain this.

Evidence relating to a crime committed in the UK may reside on the internet on:

- a website
- a forum posting
- a web blog

Investigators should consult their force Computer Crime Unit if they wish to copy and preserve website content. **Open source intelligence gathering** includes proactive attempts to monitor the internet to detect illegal activities.

When **researching suspects**, internet searches such as Google and social networking sites, can provide a wealth of valuable personal information e.g.

location, movements and associates which would not normally be available. Prior to conducting any open source intelligence gathering individuals **must** consult their local intelligence unit. This is a complicated area of the law and specific instructions should be obtained before proceeding.

Social networking sites are an excellent source of information but remember that organised crime groups and individual criminals will also search these databases for information about police officers and our organisations.

Investigative decision making (LPG1_7_07) v1.00

Your decision-making process in an investigation or examination of an incident should be capable of withstanding the closest scrutiny. You should record the rationale behind each decision you make and action you take. All decisions should reflect human rights issues.

The following are suggested areas of the **investigative decision-making process**:

- gather and understand
- consult and plan
- examine and decide
- record and collate
- evaluate and follow-up

Consideration of each of these steps will promote effective decision making.

The above process links into the five principles of the **investigative mindset**:

- your understanding of the material
- planning and preparation
- examination
- recording and collation
- evaluation

Decision making is a skill that requires application and development. By continued application of the investigative mindset, and with experience, your decision-making skills should improve. Most decisions will allow some time to

reflect and research materials and actions. Development in this context will improve decision-making ability when risks are greater and time is limited.

Disclosure (LPG1_7_08) v1.00

The Criminal Procedure and Investigations Act 1996 (referred to as 'the CPIA') and the Code of Practice issued under Section 23(1) of the Act define strict rules about the way unused material is dealt with. The CPIA is concerned with material gathered during a 'criminal investigation'.

What material must be retained?

The CPIA Code of Practice requires that ALL material must be retained, including information and objects, which are obtained in the course of a criminal investigation and which may be relevant to the investigation. Material may be photographed, video-recorded, captured digitally or otherwise retained in the form of a copy rather than the original at any time.

When and how must material be recorded?

In order to achieve this process, the CPIA Code of Practice places certain duties on the disclosure officer (remember that in many cases, this may be you):

- to examine the material which has been retained, but which does not form part of the prosecution case
- to create where required schedules of such material that describe each item properly and pass it to the prosecutor
- to identify and send to the prosecutor material which 'might undermine the prosecution case' or 'assist the case for the accused'
- to look again at the schedules when a defence statement is received and identify material not previously disclosed that 'may reasonably be expected to assist the accused's defence' and to send it to the prosecutor
- to send to the prosecutor anything else which they ask for
- to certify that the duties under the Code of Practice are being complied with

All of this material is revealed to the prosecutor by way of schedules. Whenever the police submit a full file of evidence to the CPS they must include schedules which list the material which has been retained but which does not form part of the prosecution case. The disclosure officer is responsible for preparing the schedules, which must contain a description of each item.

Discretion (LPG1_7_09) v1.00

Police officers, special constables and PCSO's have wide powers available, but there will be times when it may not be necessary to use those powers. It will be a case of using your discretion.

Discretion has been defined in a number of ways:

- freedom of judgement and action
- authority to decide and choose
- selecting the best course of action, having recognised and considered all of the alternatives

Although not a statutory right, the proper use of discretion is recognised as a policing skill. It is not your duty to indiscriminately prosecute every person who commits an offence.

The decision you make therefore must be based on an **objective consideration** of the factors surrounding an event. If called upon, you should be able to explain your actions to another person who, although not necessarily agreeing with your use of discretion, will be able to appreciate the grounds for your decision.

It is impossible to apply rigid rules to the decision-making process.

Exhibits requiring specialist handling (LPG1_7_10) v1.00

Specialist handling will be required for hazardous materials and for those of a particularly fragile nature where lack of correct procedure rather than lack of care could lead to the loss of the evidence. Further information about exhibits can be found in **LPG1_4_04 Exhibits and LPG1_7_06 Securing and Preserving Digital Evidence.**

Examples of hazardous material would be:

- all liquid blood and body fluid samples, including toxicological samples
- any item stained with blood or other body fluid
- items infested with parasites
- hazardous chemicals
- explosives, explosive devices, incendiary materials and pyrotechnics
- any item with a sharp edge capable of causing penetration or injury

Examples of items of a fragile nature would be:

- documents
- electronic storage devices

Where to seek guidance

Your communications centre or control room staff, a supervisor or your Crime Scene Investigator will be able to advise on how to deal with most items. Some items will require specialist assistance, for example:

- firearms and ammunition – firearms department
- explosive items – bomb disposal
- hazardous chemicals – fire service
- electronic storage devices – check to see if your force has specialist staff dealing with e-crime

Remember, if in doubt, seek advice before moving or handling anything.

Information processing (LPG1_7_11) v1.00**Investigative evaluation**

Investigative evaluation is designed to establish

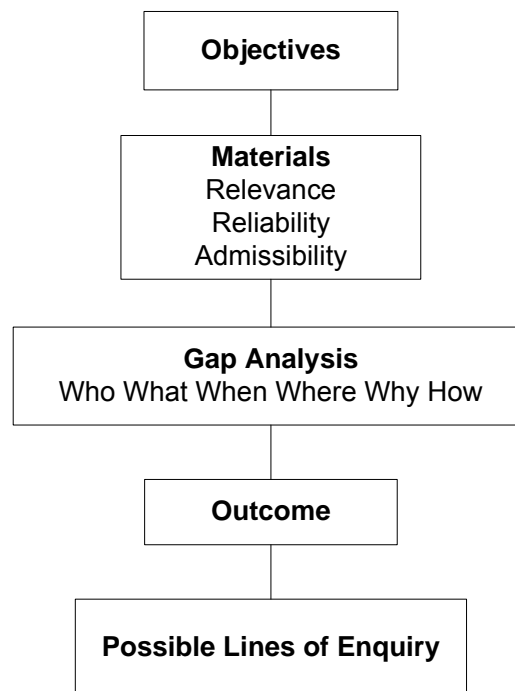
- what is known
- what is not known
- consistencies
- conflicts

Evidential Evaluation

This is designed to consider

- the overall strength of the case
- whether sufficient evidence exists against the offender to proceed to charge

The evaluation process:



Initial Investigation and Recording a Crime (LPG1_7_12)

v1.00

The initial investigation of crime is all about obtaining the core information regarding an incident which will enable all those involved in the process to determine:

- what exactly has occurred
- is the incident a crime
- if so, what sort of a crime

National Crime Recording Standards (NCRS)

The standard sets out three basic principles for the recording of crimes for constabularies to follow:

- All reports of incident, whether from victims, witnesses or third parties and whether crime related or not, will result in the registration of an incident report.
- Following the initial registration, an incident will be recorded as a crime (notifiable offence) if, on the balance of probability:
 1. The circumstances as reported amount to a crime defined by law, and
 2. There is no credible evidence to the contrary.
- Once recorded, a crime will remain recorded unless there is credible evidence to disprove that a crime has occurred.

Police action when a crime is reported

You should take the following general action in all cases of crime reported to you:

- obtain all possible information from witnesses and victims
- complete a crime report and submit before going off duty
- inform supervising officers, specialist teams or CID dependent upon type or seriousness of offence

Remember the mnemonic **STOP CRIMES** that covers the ten points of the modus operandi system (M.O.) to be borne in mind when collecting information:

Style	the style of deception used in criminal deception cases, e.g. dressed as a church minister, documents claiming to be an insurance collector
Time	relative to an event (not to the clock), e.g. only on market days, early closing days, on certain days of the months
Objective	the objective of the crime, e.g. gain, lust, revenge
Pal	accomplice or friend
Class	the class of person or property attacked
Reason	reason for being in the area, the criminal's self-account
Instrument	instrument used to commit the crime, e.g. crowbar, could be unusual bodily force (sitting on victim)
Mode	mode of transport used to commit the crimes
Entry	the actual point where entry was made

Signature something unusual done by the criminal, their 'signature', e.g. creates an escape route by wedging doors open, closes curtains, ejaculates into women's underwear, defecates

Purpose of a Crime Report

Upon receiving a complaint of a crime, a crime report is completed by an officer who may visit the scene of the crime. The purpose of a crime report is to provide a permanent record setting out the details of the crime. It also helps with the collation of official statistics.

What Does a Crime Report Contain?

The style of crime reports differs from force to force, but the following details may be included:

1. victim's details: name and address, date and place of birth, occupation, sex
2. place of offence, time and date committed
3. details of offence
4. injury to victim and type of weapon used
5. value of property stolen, recovered, damaged
6. property stolen identifiable, non-identifiable, recovered
7. means of disposal of offence (used for statistical purposes and is generally completed by a supervisor and relates to whether or not the crime was detected)
8. officers attending scene
9. persons wanted or suspected
10. circulations if appropriate
11. date supplementary crime report due (this may be subject to local procedure and does not always appear)
12. date and by whom victim was informed of the result of the investigation

If you are investigating an offence it is important to keep the victim informed of your progress.

Investigating possible lost or stolen vehicles (LPG1_7_13)

v1.00

Many factors can initiate an investigation into a lost or stolen motor vehicle. Vehicle crime is a volume crime; it will not be possible for you to remember every missing or suspect vehicle which has been reported, therefore one of your main investigation tools should be Police National Computer (PNC).

The following details from PNC will help your investigation:

- name and address of the registered keeper
- full details of the vehicle – its Vehicle Identity Number (VIN), engine/chassis number if different, the make, model and colour of the vehicle, when it was first registered
- if vehicle excise licence is current, MOT and insurance details
- police reports, i.e. if the vehicle is lost, stolen, missing, found, seen in suspicious circumstances or other intelligence information

If you are suspicious the following may also assist:

- establish the identity of the driver/owner
- checking documentation for the vehicle
- every day information about the vehicle, for example, can the alleged owner tell you what make the tyres are, where the tax disc was issued, what is in the boot or glove compartment?

Abandoned vehicles

Factors that may assist you in establishing the vehicle is abandoned may be its distance from the home address of the registered keeper, whether the windscreen is dusty or dirty over the area normally swept by the wipers, if it is neatly parked or appears to have just been dumped, and if there is any apparent damage to either the door locks or the steering lock and ignition.

Initial action

- check PNC for any lost or stolen markers on the vehicle
- contact your control room and have a found marker placed on the vehicle

- be careful to preserve any possible forensic evidence
- if possible secure the vehicle and safeguard any valuables
- make local enquires to establish how long the vehicle has been there, was anyone seen with it?

You may be asked to remain with the vehicle until it is recovered by the owner or moved to a police compound.

Personal Descriptions (LPG1_7_15) v1.00

Personal descriptions should be objective and detailed. Where possible descriptions of people should **always** include the following ten points:

- Colour of skin
- Age
- Sex
- Height - e.g. objects/other people can be used as reference point
- Build - e.g. slim, athletic, stocky
- Hairstyle and colour
- Complexion
- Distinguishing features - e.g. tattoos, scars, beard
- Clothing, and
- Whether carrying anything

Remember! Avoid using **normal** and **average** in your descriptions.

Reporting lost or stolen vehicles (LPG1_7_18) v1.00

The primary objective with regard to the reporting of lost or stolen vehicles is to get the vehicle circulated on the Police National Computer (PNC) as soon as possible. This is because it could be well outside your constabulary area in a short space of time.

Sufficient information needs to be obtained initially to submit a crime report, so information such as the Vehicle Registration Mark (VRM), the make, type and colour of the vehicle will be required, as will details of the registered keeper, the loser (if different) and the details of the person reporting. The circumstances of

the loss, i.e. date, time, place, when last seen etc., will also need to be recorded, as will any particular distinguishing features of the vehicle.

Confirming the vehicle lost or stolen

If the initial report is made via telephone, then having given initial details, the loser will be asked to attend their local police station with the Vehicle Registration Document (V5), insurance details, and usually some other form of identification or proof of ownership.

The staff member verifying the V5 will be looking to:

- confirm the VRM if a motor vehicle
- confirm the VIN and the engine number, or other distinguishing marks if plant
- confirm details of the registered keeper
- confirm the description of the vehicle i.e. colour etc.

This information will be checked against the upper DVLA area of the PNC report if a motor vehicle, or used to create a new page if other property.

Crime scene examiner and support services (LPG1_7_19)

v1.00

The **crime scene** can present itself in a number of ways and may not be immediately obvious to the investigator or initial attending officers. This may include:

- the victim
- witnesses
- routes to and from the scene
- the suspect
- weapons (including live and spent ammunition)
- the suspect's home address or other premises
- vehicles (including boats and caravans)
- dump sites (including victim, clothing, weapons, or stolen property)

The victim or witnesses to the offence will usually be able describe precisely where and how the offence was committed. This will enable investigators to

preserve the scene at the earliest opportunity and to recover the best possible material in a manner which preserves its integrity.

The techniques of crime scene management are based on Locard's principle of exchange, which states that:

'Anyone who enters the scene both takes something of the scene with them and leaves something of themselves behind.'

Practice Advice on Core Investigative Doctrine 2005

This means that every contact has the potential to leave a trace however miniscule. Such traces are usually:

- fingerprints
- DNA
- fibres
- footwear marks

These traces provide valuable material that can link a suspect to the crime. The techniques for recovering this material are highly specialised and crime scene investigators or examiners have the necessary training and equipment to carry them out. You should be aware how to preserve and seize, if necessary, items that have the potential to provide such evidence.

Cautions, significant statements & unsolicited comments (LPG1_7_20) v1.02

If a person is questioned without having been cautioned when a caution should have been given, any admissions made by that person are likely to be inadmissible as evidence.

When caution

"You do not have to say anything but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence." (PACE Code C 10.5)

Where the use of the Welsh language is appropriate, a constable may provide the caution directly in Welsh in the following terms:

“Does dim rhaid i chi ddweud dim byd. Ond gall niweidio eich amddiffyniad os na fyddwch chi’n sôn, wrth gael eich holi, am rywbeth y byddwch chi’n dibynnu arno nes ymlaen yn y Llys. Gall unrhyw beth yr ydych yn ei ddweud gael ei roi fel tystiolaeth.”
(PACE Code C 10.5)

This caution is a form of prescribed words stated to a suspect, when either

- a person is not under arrest but you have grounds to suspect that person of an offence, and you intend to ask that person questions which relate to their involvement or suspected involvement in that offence, or
- you intend to ask that person more questions, where the answer to questions you previously asked actually provided you with the grounds to suspect that person of the offence, or
- when you arrest that person, or
- all other occasions before a person is charged or informed they may be prosecuted.

Note: Minor deviations from the wording given will not constitute a breach of PACE Code C if the sense of the caution is preserved – Code C10.7.

A person who is arrested, or further arrested, must also be cautioned unless: it is impracticable to do so by reason of their condition or behaviour at the time; or they have already been cautioned immediately prior to arrest. (Code C 10.4) If you are not able to give them this information because they are violently struggling or are so under the influence of drink or drugs to understand, they should be informed as soon as practicable. If it appears a person does not understand the caution, the person giving it should explain it in their own words. (Code C 10D). A record shall be made when a caution is given. (Code C 10.13)

Now caution

“You do not have to say anything. But it may harm your defence if you do not mention now something which you later rely on in court. Anything you do say may be given in evidence.”
(PACE Code C 16.2)

Where the use of the Welsh language is appropriate, a constable may provide the caution directly in Welsh in the following terms:

“Does dim rhaid i chi ddweud dim byd. Ond gall niweidio eich amddiffyniad os na fyddwch chi'n sôn, yn awr, am rywbeth y byddwch chi'n dibynnu arno nes ymlaen yn y llys. Gall unrhyw beth yr ydych yn ei ddweud gael ei roi fel tystiolaeth.”
(PACE Code C 16.2)

This caution is used when a detained person is charged with, or informed that they may be prosecuted for an offence (unless a restriction from drawing adverse inferences from silence applies as per PACE Codes of Practice Annex C).

Caution + 2

Whenever a person who is **not under arrest** is initially cautioned (or is reminded that they are under caution) because you intend to ask questions about the suspected offence(s), they must at the same time be told:

- they are not under arrest, and
- they are not obliged to remain with the officer (Code C 10.2)

Caution + 3

If a suspected person, who is not under arrest, attends a police station and you caution them, in addition to the above two rights, they are also entitled to free legal advice and you must advise them of this. In this situation you should immediately inform a supervising officer so that the required forms can be completed to obtain legal advice. The entitlement to free legal advice only applies to people who are at a police station and have been cautioned.

Inference

The caution does not say that the person must say or not say something. It merely tells the person that a court may decide to not accept, or not place as much weight on any explanation given by the suspect in court, if they have had an opportunity to give an explanation at the time they were questioned. This is known as drawing an inference.

Restricted caution

“You do not have to say anything, but anything you do say may be given in evidence.” (PACE Code C, Annex C, paragraph 2)

Where the use of the Welsh language is appropriate, a constable may provide the caution directly in Welsh in the following terms:

“Does dim rhaid i chi ddweud dim byd, ond gall unrhyw beth yr ydych yn ei ddweud gael ei roi fel tystiolaeth.” (PACE Code C, Annex C, paragraph 2)

A requirement to give a restricted caution arises when the restriction on drawing adverse inferences applies.

When restrictions on drawing adverse inferences from silence ceases to apply before or at the time the person is charged or informed they may be prosecuted they should be re-cautioned in the appropriate terms, (usually the when caution). The procedures and wording in relation to the use and cease of use of the restricted caution is contained in Code C, Annex C, of the PACE Codes of Practice.

This caution also applies when you wish to put a statement or interview with another person before the person being questioned. See PACE Code C16.4.

A significant statement or silence

A significant statement or silence is one which appears capable of being used in evidence against the suspect, in particular:

- a direct admission of guilt, or
- failure or refusal to answer a question, or
- to answer it satisfactorily.

Relevant comments

There will be instances where an unsolicited comment made by a suspected person falls outside the context of a significant statement, but may nevertheless still be relevant to the offence.

Interview

An interview is the questioning of a person regarding their involvement or suspected involvement in a criminal offence or offences which, by virtue of paragraph 10.1 of Code C, is required to be carried out under caution.

Unfairness and Oppression (LPG1_7_24) v1.00

'Oppression'- Section 76 (8) of the Police and Criminal Evidence Act 1984

"Oppression" includes torture, inhuman or degrading treatment and the use or threat of violence (whether or not amounting to torture).

Stated Case: 'R v Fulling 1987' The Court of Appeal, in giving their decision in this case, provided a definition of oppression as follows:

"Oppression" means the exercise of authority or power in a burdensome, harsh or wrongful manner, or unjust or cruel treatment or the imposition of unreasonable or unjust burdens in circumstances which would almost always entail some impropriety on the part of the interrogator.

'Unfair evidence'- Section 78 of the Police and Criminal Evidence Act 1984

78(1) in any proceedings the court may refuse to allow evidence on which the prosecution proposes to rely to be given if it appears to the court that, having regard to all the circumstances, including the circumstances in which the evidence was obtained, the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it.

78(2) nothing in this section shall prejudice any rule of law requiring a court to exclude evidence.

78(3) this section shall not apply in the case of proceedings before a magistrates' court inquiring into an offence as examining justices.

It may also be of interest to read about the principles of entrapment.

A court will consider each case on its merits and so there are no general guidelines.

A breach of the Act or Codes does not mean that any statements made by a defendant following the breach would necessarily be ruled inadmissible. Every case is determined on its own merits but you must be aware that evidence could become inadmissible as a result of oppression.

Victim personal statement (LPG1_7_25) v1.03

The purpose of the Victim Personal Statement (VPS) is to:

- provide a means by which a victim may make known their legitimate interests, such as: their wish to receive information about case progress, to express concerns about intimidation or the alleged offender being granted bail, their wish to seek compensation, or to request referral to Victim Support or other help agencies
- give victims the chance to tell the criminal justice agencies and services dealing with their cases how the crimes have affected them physically, emotionally, psychologically, financially, or in any other way
- provide the criminal justice agencies with a ready source of information on how the particular crime has affected the victim involved, supplementing other sources of information available

A victim is defined by the CPS guidance as a person who has complained to the commission of an offence against themselves or their property for which the prosecuting authority is the Crown Prosecution Service (CPS). The definition includes bereaved relatives or partners in homicide and fatal road traffic cases, as well as parents and carers where the victim is a child or vulnerable adult.

Stage 1 of the VPS is an add-on to the MG11 witness statement form. The following caption is added:

“I have been given the Victim Personal Statement (VPS) leaflet and the VPS scheme has been explained to me. What follows is what I wish to say in connection with this matter. I understand that what I say may be used in various ways and that it may be disclosed to the defence.”

A VPS is intended to provide additional information to all criminal justice agencies dealing with the case, enabling them to make more informed decisions. At this stage, use of the VPS by investigating officers includes:

- determining whether or not victims want to be kept informed of progress on the case
- presenting information to custody officers regarding the victim's concerns about bail, which may influence their decisions to grant bail under Section 47 of the Police and Criminal Evidence Act 1984
- deciding what, if any, bail conditions would be appropriate to obviate the need to detain a person in custody
- helping to determine whether to put the victim in early contact with Victim Support or any other support agency
- highlighting information to the crown prosecutor about the victim's perspective on the crime via the Case File Information form MG6

Stage 2 allows victims to provide a further VPS describing any longer-term effects the crime may have had on them.

A VPS provides additional information to all criminal justice agencies dealing with the case, enabling them to make more informed decisions.

Special Warnings (LPG1_7_26) v1.00

When a suspect who is interviewed after arrest and fails or refuses to answer certain questions, or to answer them satisfactorily after due warning, a court or jury in determining whether the suspect is guilty of the offence charged, may draw a proper **inference** from this silence under **Sections 36 and 37** of the Criminal Justice and Public Order Act 1994.

Section 36: Applies to circumstances when a suspect is arrested by a constable and there is found:

1. on his person, in or on his clothing or footwear, or otherwise in his possession, or in the place where he was arrested, any objects, marks or substances or marks on such objects
2. which a constable investigating the case reasonably believes may be attributable to the participation of that person in an offence specified by the constable and,

3. the person fails or refuses to account for the objects, marks or substances found when requested to do so by a constable who informs the person of his belief.

Section 37: Applies to circumstances when an arrested person was found by the constable:

1. at a place at or about the time the offence for which he was arrested is alleged to have been committed and,
2. a constable investigating the offence reasonably believes that the presence of the person at that place and at that time may be attributable to his participation in the offence and,
3. the constable informs the person of his belief and the person fails or refuses to account for his presence at that place when requested to do so by the constable.

Inferences: For an inference to be drawn from a suspect's failure or refusal to answer a question about a matter or to answer it satisfactorily, the interviewing officer must first state to him/her the following five points in ordinary language:

1. what offence he/she is investigating
2. what fact he/she is asking the suspect to account for
3. that he/she believes this fact may be due to the suspect's part in the commission of the offence
4. that a court may draw inference if he/she fails or refuses to account for the fact about which he/she is being questioned
5. that a record is being made of the interview and that it may be given in evidence if he/she is brought to trial

As a general rule, the special warning should be given for each fact the suspect is asked to account for.

Useful flow charts for both Section 36 and 37 can be located in LPG1_7_26_SN

Identification (LPG1_7_27) v1.02

PACE Code of Practice D must govern your actions at all times

Verifying the identity of a known suspect

Paragraph 3.12 of PACE Code of Practice D states: 'an identification procedure shall be held unless it is not practicable or it would serve no useful purpose in proving or disproving whether the suspect was involved in committing the offence'.

In a case that involves disputed identification evidence, and where the identity of the suspect is known to the police and he or she is available, the following identification procedures may be used: Video identification, Identification parade, Group identification, Confrontation.

Selecting an identification procedure (Paragraph 3.14)

If an identification procedure is to be held, the suspect shall initially be offered a video identification unless:

- a. a video identification is not practicable; or
- b. an identification parade is both practicable and more suitable than a video identification; or
- c. a group identification may be offered if the officer in charge of the investigation considers it is more suitable than a video identification or an identification parade and the identification officer considers it practicable to arrange.

If none of these options are practicable, the identification officer can arrange for the suspect to be **confronted** by the witness.

Identification procedures

Before identification procedures are carried out, the suspect or their solicitor must be given the first description made by any witnesses who are to attend the procedure or allowed to view any material which has been released to the media. The suspect has a right to have a solicitor or friend present as per Code D 3.17(iii).

When participating in any of the following identification procedures, witnesses:

- must be informed that the suspect may not be present
- must not be allowed to communicate with each other about the case (not a requirement in respect of confrontation procedures)
- must not be reminded of any earlier description or other identification (not a requirement in respect of confrontation procedures)
- must not see the suspect before or after participating in the identification procedure (not a requirement in respect of confrontation or video ID procedures)

Video film identification: The witness is shown moving images of a known suspect. Refer Code D – Annex A

Identification parade: The witness sees the suspect in a line of at least eight other people. Refer Code D – Annex B

Group identification: The witness sees the suspect in an informal group of people. Refer Code D – Annex C

Confrontation: The suspect is directly confronted by the witness. Refer Code D – Annex D

Other methods of establishing and verifying the identification of a suspect

Fingerprints and palmprints

These are used to identify suspects from 'marks' left at the scene of a crime. In the case of a person who is mentally disordered, mentally vulnerable or a juvenile, any procedure involving their participation under Code C, must take place in the presence of an appropriate adult.

If fingerprints and palmprints found at scenes of crime are to be compared with those on record, then we have to have a way of building up and maintaining such a record.

The fingerprints of a person may be taken only with his or her written consent unless Section 61 PACE applies. For advice re persons who are mentally disordered, mentally vulnerable or juveniles, refer to **Code D paragraph 2.12**.

Note: The terms 'mentally disordered' and 'mentally vulnerable' are used to correctly reflect the Codes of Practice. Outside of this use the preferred term is 'mental ill health'. (Refer NPIA/ACPO guidance on 'Responding to people with Mental Ill Health or Learning Disabilities' 2010)

Section 61 of PACE states that the fingerprints of a person over 10 years, detained at a police station, may be taken without the appropriate consent if:

- they are detained in consequence of their arrest for a recordable offence; or
- they have been charged with a recordable offence or informed that they will be reported for such an offence; and
- they have not had their fingerprints taken in the course of the investigation of the offence by the police.

In cases where fingerprints are taken without consent, reasonable force may be used to obtain them.

Where fingerprints are taken either with or without consent, the person from whom they are taken:

- must be informed of the reason the fingerprints are to be taken
- they should also be told that their fingerprints may be retained and may be subject to a speculative search unless destruction of the fingerprints is required. If their destruction is required they should be told that they may witness their destruction (Code D, Annex F)

Note: The fingerprints taken from a person suspected of committing a recordable offence but not arrested, charged or informed they will be reported for it, may only be subjected to a speculative search if the person consents in writing. **Code D, note 4B** provides an example of the form of words to be used when obtaining consent.

Impressions of a person's footwear

These may be taken in connection with the criminal investigation of an offence similar to the procedures governing the taking of fingerprints. Impressions can only be taken with the person's consent, unless Section 61A of PACE applies. If they are taken at a police station that consent must be in writing.

Section 61A of PACE states that footwear impressions of a person over 10 years, detained at a police station, may be taken without the appropriate consent, using reasonable force if necessary if:

- they are detained in consequence of their arrest for a recordable offence; or
- they have been charged with a recordable offence or informed that they will be reported for such an offence; and
- they have not had an impression of their footwear taken in the course of the investigation of the offence unless the previously taken impression was not complete or was not of sufficient quality to allow analysis, comparison or matching.

Before any footwear impression is taken with, or without consent, the person must be informed:

- of the reason the impression is to be taken
- that the impression may be retained and may be the subject of a speculative search against other impressions, unless destruction of the impression is required and
- in the event of the footwear impressions having to be destroyed they may witness their destruction

Identification by body samples and impressions

The terms 'intimate and non-intimate samples' are defined in Section 65 of the Police and Criminal Evidence Act 1984.

For '**intimate samples**' refer Code D Paragraph 6.1(a). For '**non-intimate samples**' refer Code D Paragraph 6.1(b).

A record must be made as soon as practicable of:

- the reasons for taking a sample or impression
- if force is used, the circumstances and those present
- whether written consent is given to the taking of a sample or impression
- the fact that the person has been informed that samples may be subject to a speculative search
- if applicable, the destruction of the sample or impression (Code D 6.10)

Non-intimate samples- Section 63 (2A)-(2C)

These may be taken from a person without the appropriate consent if two conditions are satisfied. The first is that the person is in police detention in consequence of their arrest for a recordable offence. The second is that:

- they have not had a non-intimate sample of the same type and from the same part of the body taken in the course of the investigation of the offence by the police; or
- they have had such a sample taken but it proved insufficient.

Reasonable force may be used if necessary to take non-intimate samples.

Intimate samples

These may be taken from a person in police detention with the suspect's written consent only if an officer of the rank of inspector or above:

- has reasonable grounds to believe that such an impression or sample will tend to confirm or disprove the suspect's involvement in a recordable offence, and
- gives authorisation for a sample to be taken.

Except for samples of urine, only a registered medical practitioner or registered health care professional or dental practitioner may take intimate samples or dental impressions as appropriate.

Before a person is asked to provide an intimate sample he or she must be warned that if he or she refuses without good cause, his or her refusal may harm his or her case if it comes to trial.

Note: For further information regarding destruction of or speculative searches on Fingerprints, Footwear Impressions and Samples - Refer to Code D Annex F

Crime and Security Act 2010

This Act received Royal Assent on 8th April 2010. The Act contains provisions to give additional powers to the police to take fingerprints and DNA samples from people who have been arrested, charged or convicted in the UK, and from those convicted overseas of serious sexual and violent offences.

In response to the European Court of Human Rights judgment in the case of *S and Marper v United Kingdom* [2008] ECHR 1581, the Act also sets out a statutory framework for the retention and destruction of biometric material, including DNA samples, DNA profiles and fingerprints, that has been taken from an individual as part of the investigation of a recordable offence. These powers were consulted upon in the Keeping the Right People on the DNA Database paper published in May 2009, found at:

<http://www.nio.gov.uk/>

The effect of this means that Section 64 PACE 1984 (destruction of fingerprints and samples) has been repealed and substituted. For further information see: www.legislation.gov.uk

Using Covert Techniques (LPG1_7_28) v1.00

Covert investigative techniques (where the intention is that the subject remains unaware that their movements, communications and/or other activities are being monitored) are capable of providing a wealth of useful intelligence and compelling evidence. The purpose is to gather as much material as is necessary that can be used as evidence in court, or recorded onto the intelligence systems to direct or assist future investigations.

Some covert techniques have the potential to interfere with a person's right to respect for their private and family life under Article 8 of the European Convention on Human Rights (ECHR). If this is considered likely specific statutory **authorisation** is available.

Part I (Chapter I) of RIPA 2000 gives a statutory basis for the lawful interception of postal and telecommunications. Interception would obtain the **content** of the communication. The product of interceptions may or may not be used in evidence dependant upon the precise power used.

Examples of types of communications in this context would include:

- telephone calls
- e-mails
- postal letters

Interception of communication means the interception of any communication **in the course of its transmission**. This means not only during an ongoing 'live' call or web chat but also whilst stored by the communication service provider (CSP) on their system in a manner that enables the intended recipient to have access to it, e.g. voicemail or web based e-mail.

RIPA allows for lawful interception of the communication but only if both the sender **and** intended recipient consent to the interception **or** one party to the communication has consented **and** surveillance has been authorised under Part II of RIPA 9 (see below).

A letter, text message or e-mail which has been delivered to the intended recipient's address, phone or home PC **could not** be intercepted, even if unread, as it is no longer in the course of its transmission. However accessing messages which are stored on the CSPs' server **could** constitute an interception and procedures should be followed to make this lawful.

Part II of RIPA 2000 provides a statutory framework for the authorisation of conduct which would otherwise amount to unlawful interference with a person's European Convention on Human Rights (ECHR) Article 8 rights. Authorisation properly granted will satisfy the tests of lawfulness, necessity and proportionality as required by the ECHR.

The capture of a single moment is unlikely to tell enough of a story about a person's life so as to require the protection of Article 8. An exception to this would be where that moment in time is inherently private in nature (e.g. a single

still photograph of a person engaged in sexual activity or a thirty second conversation between a person and their doctor).

The test is whether the information reveals something significant about the way a person lives their life (e.g. their preferences, beliefs or the nature and extent of their relationships). Watching a person get into a car says little of substance about them but listening to a subsequent conversation with a passenger may produce significant biographical detail.

Similarly a drive past of a subject premises (or even a series of drive pasts) where individuals are seen entering or leaving premises is unlikely to meet this part of the test. Undertaking mobile or foot surveillance over a sustained period of time, however, may reveal something significant.

RIPA Section 48(2) defines surveillance as including:

- monitoring, observing, or listening to persons, their movements, their conversations, or their other activities or communications
- recording anything monitored, observed or listened to in the course of surveillance
- surveillance by or with the assistance of a surveillance device

Authorisation may be granted for the use of:

- directed surveillance
- intrusive surveillance
- the use or conduct of a covert human intelligence source (CHIS)

Directed Surveillance is covert but not intrusive, undertaken for the purposes of a specific investigation and is likely to result in the obtaining of **private information** about a person. Directed surveillance generally takes place in locations open to the general public.

N.B. Authorisations for directed surveillance are not normally necessary for general observations made during routine patrol or where covert surveillance is undertaken as **an immediate response to unforeseen circumstances**. It is very important that you understand when any action you intend to take would fit the definition of surveillance, and if it does, consider whether authorisation

would be appropriate to commence or continue taking action. Seek advice from your supervisor or force specialists.

Intrusive Surveillance is carried out in relation to anything taking place on any residential premises **or** in any private vehicle and involves the presence of an individual on the premises or in the vehicle, or is carried out by means of a surveillance device.

A Covert Human Intelligence Source (or CHIS) is a person who establishes or maintains a personal or other relationship with another person for the covert purpose of obtaining information or to provide access to any information to another person **or** covertly discloses information obtained by the use of such a relationship.

Members of the public and undercover investigators, or covert internet investigators, may all be authorised as a CHIS. When a decision is made that an individual is a Covert Human Intelligence Source a formal system of authorisation and control may be initiated.

This source management system consists of the following roles:

- authorising officer
- controller
- handler

It is a national policy that only officers who have undergone specific, specialist training will become handlers and deal with CHIS's.

Points to Remember:

- Sources do not belong to individual officers - they are resources to be deployed for the benefit of police
- Processes must be in place to protect the identity of sources

Part IV of RIPA relates to the scrutiny and regulation of use of powers regarding covert techniques. The Act established an independent Tribunal ('the Investigatory Powers Tribunal'). This is a means of redress for those who wish to complain about the use of powers.

Communications Data and Encrypted Electronic Info (LPG1_7_29) v1.00

Communications data is information held by communication service providers (CSP's) relating to the communications made by the users of their services.

Communications data **does not** include the **content** of any communication. The term 'communications data' embraces the 'who', 'when' and 'where' of a communication but not the content - not what was said or written.

There are three types of communication data defined in Section 21 of RIPA 2000:

1) Traffic data – for example:

- information identifying the location of equipment e.g. a mobile phone
- information identifying the sender or recipient (including copy recipients) of a communication e.g. an email

2) Service use information – for example:

- itemised telephone call records (numbers called)
- itemised records of connections to internet services

3) Subscriber information – for example:

- subscribers or account holders' account information, including names and addresses for installation and billing including payment method(s) and details of payments

The acquisition of communications data under the Act will be a justifiable interference with an individual's human rights under Article 8 of the European Convention on Human Rights (Right to respect for a private and family life) **only** if the conduct being authorised or required to take place is both **necessary** and **proportionate** and in accordance with law.

Acquisition of communications data involves four roles:

- 1) the applicant
- 2) the designated person
- 3) the single point of contact (SPoC)
- 4) the senior responsible officer

An authorisation provides authority to engage in specific conduct, relating to a postal service or telecommunications system, to obtain communications data.

There are circumstances when the police undertake enquiries in relation to specific matters of public interest where the disclosure of communications data may be **necessary** and **proportionate**. These purposes assist the police in carrying out its functions in relation to sudden deaths, serious injuries and vulnerable people to either identify that person or inform their next of kin.

Certain CSPs have obligations under the Communications Act 2003 in respect of emergency calls made to 999 and 112 emergency numbers. They must ensure that any service user can access the emergency authorities by using the emergency numbers and, to the extent technically feasible, make caller location information available to the emergency authorities for all 999/112 calls.

Part III of RIPA 2000 details the powers and associated duties of the police, customs and excise and the intelligence services when requiring disclosure of **electronic data that is protected by encryption**. It concerns disclosure of protected electronic information (electronic data) in an intelligible form, or to acquire the means by which protected electronic information may be accessed or put in an intelligible form.

An example could be concerning encrypted files believed to contain indecent images where the encryption prevents the prosecution of suspects or identification of victims. Protected information can come into police possession by various means. Often it is when they have used their powers to seize, detain, to inspect, to search for property or to interfere with documents or other property.

Collision scene management (LPG1_8_01) v1.00

Members of the public will expect you to know what to do at the scene of a road collision.

Initial Action:

Safety

- protect yourself
- protect all parties involved
- protect the scene from traffic

Assessment

- how many people have been badly injured?
- how many vehicles are involved, can they be moved?
- any other hazards, such as chemicals or petrol?

Preserve Life

- attend to the injured
- use your first aid training who to prioritise

Other responsibilities

- find witnesses and secure details
- take control of the situation

Priorities

These guidelines will stand you in good stead, but there will be odd occasions when you will have to deviate from the order given.

Remember to:

- protect life
- protect property
- preserve evidence

Samples

Each police force will provide instructions on this aspect of investigation, as guidance you should:

- collect paint, glass and plastic samples believed to come from a vehicle that has failed to stop involved in the collision
- obtain a control sample from the above

Remember

- protect yourself
- protect the public
- protect the scene
- gather and secure evidence
- ask for specialist assistance if required
- approach with an open mind
- be aware of the effects of shock on those involved
- seek help if you are affected by the incident

Driving Whilst Disqualified (LPG1_8_03) v1.02

Obtaining licence or driving while disqualified – Section 103 Road Traffic Act 1988

A person is guilty of an offence if, while disqualified for holding or obtaining a license he:

- obtains a licence, or
- drives a motor vehicle on a road.

Power of arrest without warrant – constables only

‘Driving’ is a question of fact. Simply it means using the vehicle’s controls to substantially direct the movement of the vehicle however that movement is produced. (R v McDonagh (1974))

There is no need to prove that the driver knew of their disqualification. All you need prove is that the person driving was in fact disqualified.

Penalty points are awarded according to the type and seriousness of the offence and are endorsed on the driving licence. When twelve points have been accumulated the driver must be disqualified, except under certain circumstances.

Where an offence requires an obligatory or discretionary disqualification (not because 12 points have been accumulated) no account is taken of any points on the licence. In other words, they remain valid even though the offender is

disqualified. The slate is not wiped clean. The length of time an endorsement on a licence remains valid varies according to the nature of the offence.

A person is disqualified when they are disqualified by a court from driving. This should not be confused with being disqualified by reason of age or medical condition. In this situation, the person does not commit the offence of disqualified driving, instead they commit the summary offence of 'Driving otherwise than in accordance with a licence' (See Driving Licence Offences').

Drink Drive, Powers of Entry and Hospital Procedure (LPG1_8_04) v1.02

Offences relating to the proportion of alcohol

Driving, Attempting to Drive or Being in Charge of a Motor Vehicle while over the prescribed limit – Sections 5(1) (a) and (b) of the Road Traffic Act (RTA) 1988

A person is guilty of an offence if they drive, attempt to drive or are in charge of:

- a motor vehicle on a road or other public place after consuming so much alcohol that the proportion of it in their breath, blood or urine exceeds the prescribed limit.

Note: For associated powers of arrest please see Section 6D RTA 1988 below

Prescribed limits

Breath: 35 micrograms of alcohol in 100 millilitres of breath

Blood: 80 milligrams of alcohol in 100 millilitres of blood

Urine: 107 milligrams of alcohol in 100 millilitres of urine

Drives:

Attempts to drive: an attempt is an intention to do something, coupled with actions directed towards accomplishing the event.

Other public place: This can be any place where the public has access, whether on payment or otherwise.

In charge: Normally, you will need to demonstrate a likelihood that the person was going to drive the vehicle. There is no precise definition of 'in charge', but there has to be a close connection between the defendant and control of the vehicle.

Driving, Attempting to Drive or Being in Charge when under the influence of drink or drugs ('driving whilst unfit') – Sections 4(1) and (2) of the RTA 1988

A person is guilty of an offence who, when driving or attempting to drive or in charge of:

- a mechanically propelled vehicle on a road or other public place is unfit to drive through drink or drugs.

Power of arrest without warrant – constables only

Note: An arrest for this offence must be justified by any of the reasons stipulated in Section 24(5) PACE 1984.

Mechanically Propelled Vehicle: Refers to any source of mechanical power, such as petrol, steam, electric, gas or oil.

Unfit through drink or drugs: It is sufficient to prove that the person's ability to drive was for the time being impaired (damaged or affected in some way) because of consumption of drink (alcoholic drink) or drugs.

Powers to require preliminary tests

Police officers are given powers to require people whom they suspect of committing traffic or driving offences to take preliminary tests to establish whether or not any offences have been committed.

Section 6(2) RTA 1988

If a constable reasonably suspects that the person:

- is driving, is attempting to drive or is in charge of a motor vehicle on a road or other public place, and
has alcohol or a drug in his body or is under the influence of a drug.

Section 6(3) RTA 1988

If a constable reasonably suspects that the person:

- has been driving, attempting to drive or in charge of a motor vehicle on a road or other public place while having alcohol or a drug in his body or while unfit to drive because of a drug, and

still has alcohol or a drug in his body or is still under the influence of a drug.

Section 6(4) RTA 1988

If a constable reasonably suspects that the person:

- is or has been driving, attempting to drive or in charge of a motor vehicle on a road or other public place, and

has committed a traffic offence while the vehicle was in motion.

Any constable may make the requirement; however, in order to carry out the preliminary tests under sub-sections (2) to (4) you must be in uniform.

Section 6(5) RTA 1988

This sub-section applies if:

- an accident occurs owing to the presence of a motor vehicle on a road or other public place, and
- a constable reasonably believes that the person was driving, attempting to drive or in charge of the vehicle at the time of the accident.

There is no need to be in uniform to carry out a preliminary test under this sub-section.

Reasonably suspects: Referred to in sub-sections 6(2)–(4) means you must be able to substantiate the cause of your suspicion.

Reasonably believes: Referred to in Section 6(5) is very similar to ‘reasonably suspects’. However, the factors upon which you form belief must be more substantial than mere suspicion.

Preliminary breath test: Commonly referred to as the ‘roadside breath test’. In respect of sub-sections (2)–(4) the test may be administered only at or near the place where the requirement to co-operate with the test was imposed. A constable may also make a requirement while lawfully on private premises

(includes land), but not if they are asked to leave before making the requirement.

In sub-section (5) only, it can be administered at a specified police station instead, if the constable who imposes the requirement thinks it would be more expedient to do so.

Preliminary impairment test: The test consists of a series of physical tasks set by a trained constable. By observing the person's ability to perform these tasks, the constable can obtain an indication whether the person is unfit to drive and if they are, whether their unfitness is likely to be due to drink or drugs. Other physical signs such as the size of the driver's pupils will give an **indication** as to whether they have been misusing substances, for example dilated pupils can mean the use of a stimulant whereas very small pupils can indicate the use of an analgesic.

For further information see the Home Office 'THINK' campaign at:

<http://www.dft.gov.uk/think/drugdrive/>

Preliminary drug test: Samples of the person's sweat or saliva will be obtained, using an approved device. The test may be administered at or near the place where the requirement to co-operate with the test was imposed, or if the constable who imposes the requirement thinks it expedient, at a specified police station.

Section 6(6) RTA 1988

A person commits an offence if, without reasonable excuse, they fail to co-operate with a preliminary test in pursuance of a requirement imposed under this section.

Fail to cooperate: this includes: refusing to take the test; not blowing into the device properly; drinking alcohol after being asked to take the test; smoking before the test after being asked not to.

Reasonable excuse: can arise out of a physical or mental inability (the preferred term is 'mental ill health'. Refer to NPIA/ACPO guidance dated Jan 2010) to co-operate with a requirement to undertake a preliminary test.

Powers of arrest – Section 6D RTA 1988

A constable may arrest a person without warrant if

- as a result of a preliminary breath test, the constable reasonably suspects that the proportion of alcohol in the person's breath or blood exceeds the prescribed limit, or
- the person fails to co-operate with a preliminary test in pursuance of a requirement imposed under Section 6, and the constable reasonably suspects that the person has alcohol or a drug in their body or is under the influence of a drug

Note: If a person fails or refuses to take the test and no alcohol is suspected, they should be reported for the offence. If alcohol is suspected, they should be arrested. Your powers of arrest are provided by the Act and not within Section 24 PACE 1984.

Powers of Entry – Section 6E RTA 1988

There are circumstances when, following an accident involving personal injury to any person, a power of entry into any place is available.

This power authorises a constable to enter premises in order to:

- require a person reasonably believed to have been driving, attempting to drive or in charge of the vehicle at the time of the accident to provide a preliminary test. (Refer to Section 6(5) mentioned earlier.)
- arrest a person who has provided a positive breath test, or
- arrest a person who has failed to co-operate with a requirement to take one or more of the preliminary tests and you reasonably suspect that the person has alcohol or a drug in their body or is under the influence of a drug.

Note: You may enter (using reasonable force if necessary) any place where the person is or where you reasonably suspect them to be.

Provision of specimens for analysis – Section 7 RTA 1988

Under Section 7, in the course of investigating either a Section 4 or 5 offence the driver can be required to provide:

- two specimens of breath for analysis by means of an approved device or
- a specimen of blood or urine for a laboratory test

The requirement to provide breath can only be made at a police station, at a hospital, or at or near a place where the '**relevant breath test**' has been administered to the person concerned or would have been so administered but for their failure to co-operate with it.

Note: The requirement to provide two samples will generally be made after the person has been arrested. '**Relevant breath test**' means preliminary breath test.

Requirements to provide specimens of blood or urine can only be made at a police station or at a hospital. There are further conditions to be met before such a specimen can be required at a police station – see Section 7(3).

Hospital procedure – Section 9 RTA 1988

The doctor immediately in charge of a patient must be notified of the proposal to require a preliminary test or the provision of specimens under Section 7 RTA 1988.

Note: It is the decision of the doctor in charge of the patient to allow the requirement to be made. The police surgeon will obtain the blood sample, not the hospital doctor.

Blood samples from unconscious drivers

Following an accident, a constable can request that a blood specimen should be taken without the consent of the casualty if it appears to the officer that the person is or may be incapable of giving valid consent because of his or her medical condition.

No specimen can be taken if the patient is in hospital and the person with direct medical care objects that by doing so, it would be prejudicial to the patients' proper care and treatment. A doctor other than a police surgeon will only be asked to take the sample if it is impracticable to obtain the services of a police surgeon.

Road traffic collision and driver obligations (LPG1_8_05)

v1.00

Section 170 Road Traffic Act 1988 - Definition of an accident generally referred to as a **reportable** accident.

Owing to the presence of a mechanically propelled vehicle on a road or other public place, an accident occurs by which personal injury is caused to a person (other than the driver of that MPV), or damage is caused to:

- a vehicle (other than that MPV or trailer drawn by it), or
- an animal (other than an animal in or on that MPV or trailer drawn by it), or
- any other property constructed on, fixed to, growing in or otherwise forming part of the land on which the road or other place in question is situated or land adjacent to such land.

Animal – CHAMPS DG - Cattle, Horse, Ass, Mule, Pig, Sheep, Dog, Goat.

MPV - a vehicle that is constructed so that it can be propelled mechanically.

Road: any highway and any other road to which the public has access, including bridges over which the road passes.

Driver's actions at the scene

The driver of an MPV involved in an accident as described above must stop and if required to do so by any person (having reasonable grounds for so requiring), give their name and address and also the name and address of the owner of the vehicle, if different, and identification marks of the vehicle.

Where injury is caused to a person other than the driver, the driver is required to produce a certificate of insurance or other evidence of insurance to a

constable or some other person, who, having reasonable grounds for doing so, has required them to produce it.

Driver’s obligations

Damage only collisions	Injury collisions
Stop	Stop
Name and address of driver	Name and address of driver
Name and address of owner	Name and address of owner
Registration or identification mark of vehicle	Registration or identification mark of vehicle
	Produce insurance

When a driver is unable to comply with the requirement to supply their name and address or produce a certificate of insurance at the scene, Section 170(6) provides that:

- the driver must do so at a police station or to a constable and must do so as soon as is reasonably practicable and in any case within 24 hours of the occurrence of the accident

Force policy

This outlines a reportable accident for the purposes of the Road Traffic Act 1988. You should consult your force standing orders for details of what is considered a recordable accident i.e which collisions you are required to record details.

V23 Procedure

When a vehicle is so badly damaged either as a result of a road traffic collision or otherwise as to render it a potential total loss a form V23 Notification of Potential Loss must be completed and submitted to the Driver and Vehicle Licensing Agency (DVLA).

Fixed penalty procedure (LPG1_8_06) v1.00

The fixed penalty procedure is an alternative to court proceedings. It replaces the need for a possible court appearance for specified offences with the payment of a fixed amount of money, the fixed penalty.

The forms of fixed penalty notice are:

- non-endorsable
- endorsable
- conditional offer of a fixed penalty notice

When you detect a road traffic offence to which a fixed penalty notice applies, you have four options available to you:

- issue a fixed penalty notice
- report the person for summons
- issue a VDRS
- give a verbal warning

You should not issue a fixed penalty notice:

- to a juvenile under 16 years
- where the offence involves a road traffic collision

Up to 3 Fixed Penalty Notices can be issued on one occasion, only 1 of which can be endorsable.

HORT/1 Process and Completion (LPG1_8_07) v1.05

When a person is unable to produce driving or vehicle documents to you at the time, they may elect to produce them at a police station. A form HORT/1 (Home Office Road Traffic 1) assists in tracking this procedure and ensures that the officer or clerk at the police station knows what is required and will act as a reminder to the driver.

Driving licences

A constable, a PCSO designated with traffic warden powers and a vehicle examiner may require the following people to produce their driving licence for examination under section 164 Road Traffic Act 1988:

- a person driving a motor vehicle on a road (or supervisor of a provisional licence holder)
- a person whom you have reasonable cause to believe to have been the driver of a motor vehicle at the time when an accident occurred owing to

its presence on a road

- a person whom you have reasonable cause to believe to have committed an offence in relation to the use of a motor vehicle on a road, or
- a person whom you have reasonable cause to believe was supervising the holder of a provisional licence when an accident occurred or at a time when an offence was suspected of having been committed by the provisional licence holder in relation to the use of the vehicle on a road.

Insurance/Test Certificates

A constable or a vehicle examiner may require the following people to produce their certificate of insurance and test certificate (if applicable) for examination and give the name and address and name and address of the owner of the vehicle under section 165 Road Traffic Act 1988:

- a person driving a motor vehicle on a road (other than an invalid carriage), or
- a person whom you have reasonable cause to believe to have been the driver of a motor vehicle at a time when an accident occurred owing to its presence on a road or other public place, or
- a person whom you have reasonable cause to believe to have committed an offence in relation to the use of a motor vehicle (other than an invalid carriage).

Registration documents

A constable, or a person authorised by the Secretary of State can require the production of a registration document from a person:

- using a vehicle for which a registration document has been issued.

Production of documents

The documents must be produced at the time; if the driver is not able to do so, they may elect to produce them within seven clear days (excluding the day the requirement was made, i.e. up until midnight on the seventh day), at a police station specified by them. A driving licence must be produced in person by the licence holder. A motorcyclist who produces a provisional driving licence is also required to produce a certificate of completion of a compulsory basic training

course for motorcyclists. You should familiarise yourself with exemptions to production.

Power to require date of birth

Under section 164 Road Traffic Act 1988, when a **constable or PCSO designated with traffic warden powers** requires production of a driving licence, a person may also be required to state their date of birth if:

- the person fails to produce the driving licence forthwith, or
- you have reason to suspect the licence produced was not granted to that person, or
 - was granted to that person in error
 - contains an alteration (other than the driver number) made with intent to deceive
 - contains a driver number that has been altered, removed or defaced
- a supervisor is reasonably suspected to be under 21 years of age

Power to require name and address

A driver or a supervisor of a provisional licence holder is required to give their name and address and the name and address of the owner of the vehicle to a **constable or PCSO designated with traffic warden powers** if:

- they are driving the vehicle or supervising a provisional licence holder, or
- the constable has reasonable cause to believe the person was the driver or supervisor at the time of an accident or offence.

Driving licence offences

- To drive a motor vehicle on a road otherwise than in accordance with a licence granted for that class of vehicle.
- To cause or permit a person to drive a motor vehicle on a road otherwise than in accordance with a licence granted for that class of vehicle.
- To fail as licence holder to sign a driving licence in ink forthwith on receiving it.
- To fail as licence holder to notify a change of address forthwith.

Driving otherwise than in accordance with a licence is a summary offence that covers a broad range of situations where a person drives a vehicle either without a licence or in a way not permitted by their licence. This would include a person driving without a licence while underage; a person driving a class of vehicle not covered by their licence such as a heavy goods vehicle; or a learner not following the conditions of their provisional licence. A person driving on a road under a provisional licence must:

- display 'L' plates on the front and rear of the vehicle, regardless of the class of vehicle. Provisional licence holders driving in Wales may display 'D' plates as an alternative to 'L' plates
- be supervised by a person of at least 21 years of age who has held a full licence for that class of vehicle for a minimum of three years.

Insurance and test certificate offences

To use, cause or permit to be used a motor vehicle on a road or other public place unless there is in force in relation to the use of the vehicle such a policy of insurance or such a security in respect of third party risk insurance/without test certificate.

Registration document offences

- to use on a public road or in a public place a vehicle for which the name and address of the keeper are not recorded in the register
- to use on a public road or in a public place a vehicle for which any particulars in the register are incorrect.

Failing to produce documents and name and address offences

- failing to produce the particular document(s) on the requirement of a police constable (and traffic warden designated with PCSO powers)
- failing to state name and address when lawfully required to do so by a police constable
- failing to state date of birth when lawfully required to do so by a police constable

Failing to stop Section 163 Road Traffic Act 1988

Any person driving a mechanically propelled vehicle or riding a pedal cycle on a road must stop on being required to do so by an officer in uniform. It is an offence to fail to stop on so being required.

A constable only has a power of entry under Section 17(1)(c) PACE 1984 for this offence.

Power to seize vehicles driven without licence or insurance, Section 165A Road Traffic Act 1988 – constables only

There are three extended reasons why a constable can seize a motor vehicle:

- failing to produce driving licence, reasonable grounds for believing that the vehicle is or was being driven otherwise than in accordance with a licence
- failing to produce insurance, reasonable grounds for believing that the vehicle is or was being driven without insurance
- vehicle fails to stop when requested by an officer in uniform, reasonable grounds for believing that the vehicle is or was being driven otherwise than in accordance with a licence, or without insurance

If one or more of the above conditions applies, the officer may seize the vehicle and remove it, enter any premises (other than a private dwelling house) where they have reasonable grounds for believing the vehicle to be for the purpose of seizing it, and use reasonable force if necessary to enter such premises or to seize the vehicle. You must be familiar with the procedure to seize vehicles.

Driving licenses, test certificates and insurance (LPG1_8_08) v1.00

Every person driving a motor vehicle on a road must have a driving licence (provisional or full) issued by the Driver and Vehicle Licensing Agency (DVLA) at Swansea. When looking at a license particular note should be taken of:

- the type of licence (provisional or full)
- licence serial number
- driver number

- name and address of the holder
- date of issue
- date of expiry
- classes of vehicle authorised to drive
- signature of licence holder

Insurance

The documents, which support proof of insurance, include certificate of insurance, electronic record or certificate of insurance, cover note, International Motor Insurance Card (often called a 'green card'), Northern Ireland certificate, EU document and certificate of deposit.

If an insurance certificate is transmitted to a person electronically by their insurers then, from April 2010, the person is to be treated as producing the relevant certificate of insurance if:

- a) using electronic equipment provided by him (or made available to him by the constable or examiner) he provides electronic access to a copy of the certificate, or
- b) he produces a legible printed copy of the certificate
- c) he provides the constable or examiner with electronic access on the website in question to a copy of the certificate

Note: Nothing in the legislation requires a constable or examiner to provide a person with electronic equipment for the purpose of compliance with a requirement to produce proof of insurance.

When examining a certificate of insurance, you should note the following particulars:

- the certificate number
- the commencement and expiry dates
- name and address of the insurance company
- whether the certificate covers the vehicle being used
- limitations as to the use of the vehicle
- the persons entitled to drive the vehicle

Test certificates

A test certificate is issued annually and is normally valid for 12 months. However, a vehicle can be retested within one month prior to the existing certificate expiring, allowing the new test certificate to expire on the anniversary of the expiry date of the old certificate.

Computer generated test certificates (Form VT20) are printed on A4 paper. The information contained on the certificate is very similar to the **old style certificate**; however, there are no security features. There is also a bilingual version (Form VT20W) which is in the English and Welsh languages. One of the benefits of the computerised certificates is that they can be instantly verified as authentic:

- on line at www.motinfo.gov.uk or
- by telephone on 0870 330 0444 and
- Via PNC, which will carry an MOT expiry date marker

Notice of Intended Prosecution (LPG1_8_09) v1.03

The warning formula for a Notice of Intended Prosecution (NIP) should be in the following terms:

'You will be reported for consideration of the question of prosecuting you for (state offence).'

There are certain traffic offences that require a NIP, these are:

- dangerous driving (section 2 Road Traffic Act (RTA) 1988)
- careless, and inconsiderate driving (section 3 RTA 1988)
- dangerous cycling (section 28 RTA 1988)
- exceeding temporary speed restrictions (section 16 Road Traffic Regulation Act 1984)
- exceeding speed restrictions on a special road (section 17(4) Road Traffic Regulation Act 1984)
- exceeding temporary speed limit imposed by order (section 88(7) Road Traffic Regulation Act 1984)
- speeding offences generally (section 89(1) Road Traffic Regulation Act 1984)

- failing to conform to a direction given by an officer engaged in the regulation of traffic (section 35 RTA 1988)
- failing to conform to certain traffic signs* (section 36 RTA 1988)
- leaving a vehicle in a dangerous position (Section 22 RTA 1988)
- aiding and abetting any of these offences

* The signs that require a NIP for failing to comply with them are listed in the Schedule to the Regulations and General Directions 2002 (SI 3113/2002).

Regulation 10 (1) provides that section 36 RTA 1988 applies to the signs listed in that Regulation 10(1), so that it is an offence under section 36 to fail to comply with such a sign.

Pedestrian and School Crossing Offences (LPG1_8_10) v1.03

School Crossings are governed by Road Traffic Regulation Act 1984.

Section 28 of the Act states:

- 'when a vehicle is approaching a place in a road where a person is crossing or seeking to cross the road, a school crossing patrol wearing a uniform approved by the Secretary of the State shall have the power, by exhibiting a prescribed sign, to require the person driving or propelling the vehicle to stop it'
- when a person has been required under subsection 1 (above) to stop a vehicle:
 - he or she shall cause the vehicle to stop before reaching the place where a person is crossing or seeking to cross and so as not to stop or impede his or her crossing, and
 - the vehicle shall not be put in motion again so as to reach the place in question as long as the sign continues to be exhibited.

Offence - Failing to comply, Road Traffic Regulation Act 1984 Section 28

Report for Summons/Process Book (LPG1_8_11) v1.00

Dependent on the offence committed, there are a number of ways you can deal with the person. However, the basis of many criminal prosecutions that you will generate, whether witnessed by yourself or another person, will begin with you

reporting for summons the person responsible. In this way, you are formally notifying a person that you suspect them of having committed the offence alleged and, as a result, the facts of the matter will be reported, and may result in a summons being issued to that individual to appear at court to answer the allegations being made.

Summons reports for traffic offences

Some offences require you to report the offence for summons, for instance documentation offences such as failing to notify change of keeper or having no driving licence. Offences that may usually be dealt with by Vehicle Defect Rectification Scheme may also be dealt with by way of summons where the defects are too severe or there are too many. Offences that are usually dealt with by means of the fixed penalty procedure (non-endorsable or endorsable) may need to be dealt with by reporting for summons as there may be multiple offences when only one fixed penalty ticket can be issued.

Laying an information

A summons is a written order signed by a justice (magistrate) or clerk of the court addressed to the accused person, directing the named person to appear at a time and place specified in the summons to answer the offences detailed in it. This is called a defendant summons. The process involved in obtaining a summons is called 'laying an information'. This is done before a justice or justice's clerk. 'Laying an information' is the result of a sequence of events that you instigate, as a police officer:

- summary offence is identified
- inform the offender that they are being reported for an offence
- complete your pocket notebook with all the relevant evidence and facts
- you subsequently complete your force's offence or 'process' report including all statements of evidence
- a supervisor decides if the case needs to be dealt with by prosecution, caution or no further action
- your report-the information-is forwarded to the court for a summons to be issued for service

Service of a summons: can be done in the following ways:

- by handing it to them personally
- by leaving it with another person, at their last known or usual place of abode, or
- by posting it to their last known or usual place of abode or any other address given by the person for this purpose

If you are required to serve a summons on a named person, you should:

- check it thoroughly for possible errors. If there are you should return it to a supervisor
- record in your notebook that you have received the summons
- serve it on the named person, endorsing the back with the date, method of service and your signature
- record your actions in your notebook
- return the endorsed copy as per force policy

Further practical hints regarding the service of summons can be found in the student notes LPG1_8_11.

Traffic signs and signals (LPG1_8_13) v1.03

Traffic signs are used to control traffic, direct traffic and to promote road safety;

The signs that are applicable to Section 36 of the Road Traffic Act 1988 are prescribed by the Traffic Signs Regulations and General Directions 2002, Regulation 10 to include:

- stop or give way
- red lights at level crossings
- keep left or keep right
- red traffic light signals
- priority to oncoming vehicles
- double white lines
- no U-turn
- no entry
- one-way street signs
- turn ahead in direction shown

Offences under Section 36 of the Road Traffic Act 1988 are subject to the rules of Notice of Intended Prosecution

Offences

Any person driving a mechanically propelled vehicle or riding a pedal cycle on a road must stop on being required to do so by an officer in uniform.

It is an offence to:

- **Fail to stop on being so required contrary to Section 163(3) Road Traffic Act 1988.**

When an officer or traffic warden is engaged in the regulation of traffic, drivers of all vehicles must obey their signals.

It is an offence to:

- **Fail to conform to the signals given by a police officer or traffic warden contrary to Section 35(1) Road Traffic Act 1988.**

Vehicle Defect Rectification Scheme (VDRS) (LPG1_8_14)

v1.00

Traffic offences

The purpose of the scheme is to enable you to deal with certain minor vehicle defects without the need to prosecute or issue a fixed penalty notice.

When you consider using the Vehicle Defect Rectification Scheme you must:

- point out the offence to the person responsible for the vehicle and report them for the offence
- inform them that no further action will be taken if they agree to participate in the Vehicle Defect Rectification Scheme

If they refuse to accept

Should the person refuse to accept the form you should proceed with:

- a fixed penalty notice, or
- a report for summons

They do not have to accept the VDRS form, as participation in the scheme is voluntary. If they do accept it they must have the defect remedied and must:

- submit the vehicle for examination at a Department of Transport approved testing station, also known as a Ministry of Transport (MoT) station and
- obtain a certificate on the form to the effect that the defect has been rectified, then
- return the certified form to the central police ticket office within 14 days

Failure to return the completed, certificated form will automatically lead to the consideration of prosecution without further enquiry.

The copy of the form will be returned to you, the reporting officer, after 21 days, to enable you to expedite the reporting process.

Driver, rider offences (LPG1_8_15) v1.03

Careless and inconsiderate driving – Section 3 Road Traffic Act 1988

If a person drives a mechanically propelled vehicle on a road or other public place without due care and attention or without reasonable consideration for other persons using the road or place, they shall be guilty of an offence.

Power of arrest without warrant – constables only

Without due care and attention

This is where the standard of driving falls below that which is expected of a reasonable, prudent and competent driver. No excuse is made for inexperience.

Examples are:

- shaving or applying make-up while driving
- crossing the central white line in the face of oncoming traffic
- failing to give way to traffic at a roundabout

Without reasonable consideration

Deals with less serious infringements of the rights of other road users, drivers, cyclists and pedestrians. A road user must have been inconvenienced.

Examples are:

- failing to dip headlights for oncoming traffic
- driving a bus roughly and causing alarm to passengers
- driving a slow vehicle for a long distance without pulling in to allow the following queue to pass

- signalling left and turning right
- pulling out from a line of parked vehicles without checking it was safe to do so

Dangerous driving – Section 2 Road Traffic Act 1988

A person who drives a mechanically propelled vehicle dangerously on a road or other public place is guilty of an offence.

Power of arrest without warrant – constables/other persons

Causing death by dangerous driving – Section 1 Road Traffic Act 1988

A person who causes the death of another person by driving a mechanically propelled vehicle dangerously on a road or other public place is guilty of an offence.

Power of arrest without warrant – constables/other persons

Dangerously means:

- the driving falls far below what would be expected of a competent and careful driver, and
- it would be obvious to a competent and careful driver that driving in that way would be dangerous, or
- it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous.

Dangerous refers to either injury to any person or serious damage to property.

Causing death by careless or inconsiderate driving – Section 2B Road Traffic Act 1988

A person who causes the death of another person by driving a mechanically propelled vehicle on a road or other public place without due care and attention or reasonable consideration for other persons using the road or place is guilty of an offence.

Power of arrest without warrant – constables / other persons

Causing Death by Driving when Unlicensed, Disqualified or uninsured - Section 3ZB of the Road Traffic Act 1988

A person who causes the death of another person by driving a motor vehicle on a road and, at the time they are driving, the circumstances are such that they are driving whilst unlicensed, are disqualified or are uninsured is guilty of an offence.

Power of arrest without warrant – Constables/other persons

Careless and inconsiderate cycling - Section 29 Road Traffic Act 1988

A person is guilty of an offence if they ride a pedal cycle on the road without due care and attention or without reasonable consideration for other road users.

Offences of careless and inconsiderate cycling are punishable with a fine and should be dealt with by reporting the offender for summons.

Improper use of mobile telephones

Under Regulation 110 the Road Vehicles (Construction and Use) Regulations 1986 no person shall drive or cause or permit any other person to drive a motor vehicle on a road while they are using a hand-held mobile telephone or a hand-held device. This includes a supervisor of a provisional licence holder.

The offence is still committed if the vehicle is stationary on a road but the engine is running.

Opening of vehicle doors so as to cause injury or endanger a person provision - Regulation 105.

No person shall open or cause or permit to be opened, any door of a vehicle on a road so as to injure or endanger any person.

Power of arrest without warrant – constables only

Offence can be dealt with by Fixed Penalty Procedure.

Speed Limits

The national speed limit governing all roads is 70 mph on motorways and dual carriageways and 60 mph on other roads. These limits are further reduced by:

- the road being restricted to a lower maximum speed, or
- the vehicle being restricted to a lower maximum speed.

A road which has a speed limit of 30 mph is called a 'restricted road' and is defined under Section 82 of the Road Traffic Regulation Act 1984 as:

- a road having a system of street lighting with lamps not more than 182.88 metres (200 yards) apart (unless 'national speed limit signs', sometimes called 'de-restriction signs', are displayed), or
- a road that has been designated by the Secretary of State or local authority to be a restricted road. Signs indicating the restriction must be displayed.

Certain vehicles are exempt from speed limits.

Speeding and traffic light offences: admissibility of certain evidence

The Road Traffic Act 1988 allows the use of automatic detection devices, approved by the Secretary of State, which detect speeding and traffic light offences. The Act allows the evidence to be given by way of documentation only, thus reducing prosecution and court time.

Vehicle registration and licensing (LPG1_8_16) v1.03

When a vehicle is first registered the licensing authority will issue the vehicle with a registration mark and issue a registration document (V5C) which contains full particulars of the vehicle. The registered keeper remains liable for the vehicle until the DVLA is notified of its sale/transfer.

Here are some offences in relation to failing to notify DVLA of certain information:

- Acquisition of vehicle
- Disposal of vehicle/SORN
- Change of details of registered keeper
- Change of vehicle particulars

There is a further offence in respect of incorrectly registered vehicles:

A person is guilty of an offence if, on a public road or in a public place, they use a vehicle when the name and address of the keeper are not recorded in the

register (kept by the Secretary of State), or any of the particulars recorded in the register are incorrect (Section 43C of the Vehicle registration and Licensing Act 1994).

This offence only applies to vehicles for which a vehicle excise duty is chargeable, or those that are exempt and require a nil licence to be in force. There are certain defences to this offence (Section 43C(3) of the Vehicle registration and Licensing Act 1994).

Failing to produce registration document – Provision S28A

A person commits an offence if they fail to produce the registration document when requested unless they produce it in person, at a police station specified by them at the time the request is made, and they do so within seven days after the date of which the request was made or as soon as is reasonably practicable.

Registration marks

Motorcycles and mopeds (with or without sidecars) first registered on or after 1 September 2001 must not display a front registration mark. Vehicles registered before 1 January 1973 can display registration marks that consist of silver, white or grey digits on a black background. After 1 January 1973 the rear marks have to be black letters and numerals on a yellow reflective background. Front marks are black letters and numerals on a white reflective background.

Under Section 42 and 43 of the Vehicle Excise and Registration Act 1994, it is an offence to:

- drive or keep a mechanically propelled vehicle on a public road when its vehicle registration mark:
 - was not fixed as required, or
 - was obscured, rendered or allowed to become not easily distinguishable'

Another offence exists where the letters and numerals are not of the correct size, shape or character.

Vehicle excise licence

Commonly called a 'tax disc', a mechanically propelled vehicle cannot be kept or used on a public road (those roads repairable at public expense, i.e. council roads, not private roads) until the appropriate vehicle excise duty has been paid. A number of vehicles are exempt from the requirements regarding vehicle excise duty.

Offences under the Vehicle Excise and Registration Act 1994:

- using/keeping on a road a vehicle for which a vehicle excise licence is not in force (Section 29)
- failing to display a vehicle excise licence (Section 33)
- using a vehicle in a condition, manner or for a purpose for which a higher rate of duty is chargeable (Sections 15 and 37)
- forge, fraudulently alter, lend, use or allow to be used by another person, a registration document, plate, trade licence or vehicle licence. (Section 44)*

*This offence is triable either way, power of arrest without warrant constables / other persons; all other offences within this section are summary offences.

Statutory Off Road Notification (SORN)

Since 31 January 1998 the keeper of a motor vehicle must notify the DVLA if the vehicle is not going to be taxed because it is not to be used or kept on a public road.

Highways and causing danger on highways (LPG1_8_17)

v1.03

Definition

'Highways' are defined under **Section 5 of the Highways Act 1835** as 'all roads, bridges, carriageways, cartways, horseways, bridleways, footways, causeways, churchways and pavements'. **The Highways Act 1980** does not

redefine 'highways'. Any offences committed in breach of these regulations are **triable summarily**.

The Highways Act 1980, Section 161(1) prohibits any person, without lawful authority or excuse:

- from depositing anything on a highway in consequence of which a user is injured or endangered.

The Highways Act 1980, Section 161(2) provides that an offence is committed by any person who, without lawful authority or excuse:

- lights a fire on or over any highway which consists of, or comprises, a carriageway and in consequence a user of the highway is injured, interrupted or endangered.
- discharges a firearm or firework within 50 feet (15.24 metres) of the centre of a highway in consequence a user of the highway is injured, interrupted or endangered.

The Highways Act 1980, Section 161A(1) provides a further offence if a person:

- lights a fire on any land not forming part of a highway which consists of or comprises a carriageway; or
- directs or permits a fire to be lit on any such land, and in consequence a user of any highway which consists of or comprises a carriageway is injured, interrupted or endangered by, or by smoke from, that fire or any other fire caused by that fire.

Fireworks Regulations 2004

The Fireworks Regulations 2004 were made under the authority of the Fireworks Act 2003.

- **Regulation 4** - This Regulation makes it an offence for a person under the age of 18 to possess an 'adult firework' in a public place.
- **Regulation 5** - This regulation prohibits any person from possessing category 4 fireworks which are professional fireworks that are not intended for sale to the general public.

Note: Prohibitions under Regulations 4 and 5 do not apply to persons employed in the business of professional displays, fireworks manufacturers or importers.

- **Regulation 7** - This regulation creates a curfew on firework use. The curfew will apply between the hours of 11 p.m. and 7 a.m. but with the exceptions of Diwali night (which is a moveable feast), 31st December and Chinese New Year (which again is a moveable feast). The curfew on these nights operates from 1 am until 7 a.m. On 5th November the curfew operates from 12 a.m. until 7 a.m. The curfews do not apply to the use of category 1 type fireworks; these are caps, party poppers, throw-downs, novelty matches, cracker snaps, serpents, non hand-held sparklers and hand-held sparklers, and category 2 sparklers.

Police powers

It is recognised that police officers will have primary responsibility for the enforcement of the possession offences. In respect of breach of curfews, it is likely that Local Authorities and Community Safety Officers will also have a vital role to play.

- You can use your stop and search powers under Section 1 PACE 1984 to stop and search a person or vehicle for any firework if you have reasonable grounds to suspect that person of being in possession of such a firework in contravention of a prohibition imposed by the Fireworks Regulations 2004.

Any offences committed in breach of these regulations are **triable summarily**; however, all of the above offences can also be dealt with by issuing a penalty notice for disorder. Before doing so you should first check your own force policy regarding this method.

Lights on vehicles (LPG1_8_18) v1.03

Specified lights are required to be available at all times, to enable vehicles to be used safely in all conditions. All lights that are required by law to be fitted to vehicles must be maintained in good and efficient working order at all times.

These lamps and reflectors include:

- Headlamps, front and rear position lamps, rear registration lamps, stop lamps, direction indicators, hazard warning, rear reflectors and rear fog lamps.

Vehicles are required to display certain lights and reflectors at certain times:

Sidelights

Lighting up time - is the period between **Sunset** and **Sunrise**, both words begin with the letter **S**. The common factor here is the letter **S**. **Side** marker lamps, these lights mark the vehicle's position in the road, and can be called position lamps. These are required to be lit from **Sunset** to **Sunrise**, so remember the letter **S**.

Headlamps

Hours of darkness - is the time between **Half an Hour** after sunset and **Half an Hour** before sunrise. The common factor here is the letter **H**. **Headlamps** are required to be lit during the **Hours** of darkness in addition to side or position lamps. So remember the letter **H**.

Headlamps are not required during the hours of darkness in a restricted area (30 mph or less) where street lights are operating.

Reduced visibility

Headlamps and position lamps are required in conditions of seriously reduced visibility. Front fog lamps may be used with or in place of headlamps. It is an offence to display fog lamps when the visibility is not seriously reduced.

The Highway Code states that visibility is severely reduced when you cannot see for more than 100 metres (328 feet).

During lighting up time all vehicles moving on a road are required to display front and rear position lamps, registration plate lamps and reflectors.

Classification of motor vehicles (LPG1_8_19) v1.03

In these notes the term 'not exceeding' is shown as 'n/e'.

Vehicle

Any kind of carriage or conveyance: coach, wagon, car, motor cycle, bicycle, horse drawn cart.

Motor Vehicle

A mechanically propelled vehicle (MPV) intended or adapted for use on roads.

Road

Any highway and other road to which the public has access and includes bridges over which a road passes.

Standard Motorcycle

An MPV not being an invalid carriage, with less than 4 wheels, unladen weight n/e 410 kg.

Goods Vehicle

A motor vehicle or trailer constructed or adapted for use for the carriage or haulage of goods or burden of any description.

Learner Motor Bicycle

A motorcycle which is either propelled by electric power or has an engine capacity not exceeding 125 cc, and the maximum net power output of its engine does n/e 11 kilowatts.

Passenger Vehicle

A vehicle constructed solely for the carriage of passengers and their effects.

Moped

A motor vehicle with fewer than 4 wheels:

- first used on or after 1.08.77 has a max design speed n/e 50 kph and, if propelled by internal combustion engine has a cylinder capacity n/e 50 cubic centimetres.
- first used before 1.08.77 has a cylinder capacity n/e 50 cubic centimetres and is equipped with pedals capable of propelling the vehicle.

Minibus

A motor vehicle constructed or adapted to carry more than 8 but not more than 16 seated passengers in addition to the driver.

Train Weight

The max laden weight for the motor vehicle together with any trailer which can be drawn by it.

Unladen Weight

Weight of the vehicle and trailer, includes all parts necessary for use, excluding water fuel etc for propulsion.

Maximum Gross/Permissible Weight or Authorised Mass

The max weight the vehicle is designed or adapted not to exceed when it is travelling on a road.

Trailer

A vehicle drawn by a motor vehicle can be almost anything.

Large bus

A vehicle constructed or adapted to carry more than 16 seated passengers in addition to the driver.

Invalid Carriage

An MPV unladen weight n/e 254 kg and specially designed and constructed (not adapted) for use by a person suffering from some physical defect or disability and is solely used by such a person.

Medium Goods Vehicle

A motor vehicle constructed or adapted to carry or haul goods and not adapted to carry more than 9 persons inclusive of driver, max permissible weight exceeds 3.5 but not 7.5 tonnes.

Large Goods Vehicle or Heavy Commercial Vehicle

Any goods vehicle which has an operating weight exceeding 7.5 tonnes.

Motor car

An MPV not being a motor tractor, a motor cycle or invalid carriage, constructed to carry a load or passengers which is below the following unladen weights:

- if the vehicle is constructed solely for the carriage of passengers and their effects, is adapted to carry not more than seven passengers exclusive of the driver and is fitted with inflatable tyres, the maximum weight is 3050 kg.
- if the vehicle is constructed or adapted for use for the conveyance of goods or burden of any description, the maximum weight is 3050 kg (increased to 3500 kg for gas propelled vehicles).
- in any other case the maximum weight is 2540 kg.

Heavy Motor Car

An MPV not being a motor car, constructed to carry a load or passengers unladen weight exceeds 2540 kg.

Locomotive

An MPV not constructed to carry a load other than water, fuel etc. for propulsion, loose tools and loose equipment unladen weight exceeds 7370 kg and does not exceed 11690kgs.

Heavy Locomotive

An MPV not constructed itself to carry a load other than any of the excepted articles and the weight of which unladen weight exceeds 11690 kilograms.

Semi Trailer

A trailer constructed or adapted to form part of an articulated vehicle including a vehicle which is not itself a motor vehicle but which has some or all of its wheels driven by the drawing vehicle.

Articulated Vehicle

These are in fact two vehicles, a vehicle and a trailer even though they are treated as one vehicle when coupled together.

Use, cause, permit (LPG1_8_20) v1.00

In circumstances when a vehicle is used on a road with a defect such as a tyre with insufficient tread or faulty brakes, more than one person may commit an offence in relation to the use of that vehicle.

Use

- the driver of a motor vehicle will always 'use'
- the person who left a motor vehicle parked on a road will always 'use'
- the owner will 'use' if the vehicle driver is an employee acting in the course of the owner's business

Use without insurance

When the owner of the vehicle is present in the vehicle and there is an offence of no insurance, it has been held that the owner is said to be using the vehicle if he still retains some control over the use of the vehicle.

Cause

- prove defendant was in a position to 'cause' the vehicle to be used, as in authorising or ordering another person to use it, and
- they knew the vehicle was defective and being used on a road.

Permit

- person giving permission must be the owner or person in control of the vehicle, ask yourself, are they in a position to forbid the use?
- must either know of the offence or not care if there is an offence or not

Aid and abet

On occasion, traffic offences are committed and using, causing or permitting does not fit with the exact circumstances. To aid and abet you must prove:

- that the person had knowledge of the facts of the offence committed, and
- they assisted in the commission of the offence, or they had a duty to act and failed in that duty.

Offences that can be aided and abetted are not restricted to traffic offences.

LPG 2 Quick Notes

Abstracting Electricity (LPG2_1_01) v1.00

Abstracting Electricity

A person who dishonestly uses without due authority, or dishonestly causes to be wasted or diverted any electricity shall be guilty of an offence, Section 13 Theft Act 1968.

The Theft Act 1968 made dishonestly abstracting electricity a specific offence. This was necessary because electricity did not come within the definition of 'property' as defined in the Act and therefore could not be 'appropriated'. It followed that electricity could not be stolen and abstracting electricity could not be dealt with as theft. An offence had to be created to place such undesirable behaviour inside the law and provide punishment for offenders.

To be guilty of the offence the perpetrator must act dishonestly.

The electricity does not have to be mains electricity; it could be from any source, e.g. from a wind turbine or solar panels. It can also apply to a telephone system, but these offences are infrequent.

Health and Safety

Electricity in any form is dangerous. It can kill instantly, cause serious burns or other injuries or start a fire.

When attending the scene of these offences do not touch any wiring or cable, whether exposed or not until it has been isolated. Do not accept the word of anyone other than a fully qualified person that the scene is safe. You should keep others away.

It is important to preserve the scene for fingerprint or other forensic examination, but the main reason for keeping yourself and everyone else clear is the risk of electrocution.

Grievous Bodily Harm (LPG2_1_02) v1.00

Grievous Bodily Harm (GBH):

Grievous bodily harm means really serious bodily harm. When someone is assaulted in this manner they suffer injuries of a more substantial nature.

Injuries of a more substantial nature include broken limbs, substantial loss of blood or contracting HIV.

Wounding or Inflicting Grievous Bodily Harm - Section 20 Offences Against the Person Act 1861

Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm:

- upon any other person
- either with or without any weapon or instrument

shall be guilty of an offence.

Grievous Bodily Harm (GBH) with Intent - Section 18 Offences Against the Person Act 1861

Whosoever shall unlawfully and maliciously, by any means whatsoever,

- wound or cause any grievous bodily harm to any person
- with intent to do some grievous bodily harm to any person,
- or with intent to resist or prevent the lawful apprehension or detention of any person

shall be guilty of an offence.

Action to be taken at the scene

GBH is a serious assault and as such your first priority when attending a scene is the safety of the victim, witnesses and, of course, yourself. When you have restored order and identified any potential weapons you should preserve any evidence and identify any witnesses. Evidence may be in the form of weapons or traces of blood. Witnesses may be able to direct you towards evidence that may be later lost.

Legal Justification

The use of reasonable force generally is acceptable and justified under certain circumstances. These are, broadly speaking,

- preventing crime
- defending yourself or another
- protecting property

Further Sexual Offences (LPG2_1_03) v1.02

Prior to reading these notes it is vital that you have covered the content of LPG1.1.14 Rape and Assault by Penetration. Prior to reading these notes it is also essential that you have covered LPG1.3.30 Initial Response to Sexual Crime. Following these student notes you should also read linked topics LPG1.3.29 Human Trafficking and LPG1.1.02 Outraging Public Decency.

In relation to the Sexual Offences Act 2003, 'Sexual' is defined under Section 78 of the Act as:

Penetration, touching or any other activity is 'sexual' if a reasonable person would consider it to be of a sexual nature.

1. The activity will be sexual if the reasonable person considers whether the nature of the activity is by its nature sexual, or
2. The activity will be sexual if a reasonable person would consider that the activity may be sexual and that because of the circumstances or the purpose of the person it is sexual.

Consent

Whether a person did or did not consent to sexual activity is fundamental to all charges of alleged non-consensual activity. Before continuing you **must** refresh your memory on the following: Section 74 Sexual Offences Act 2003: Definition of Consent; Section 75 Sexual Offences Act 2003: Evidential presumptions about consent and Section 76 Sexual Offences Act 2003: Conclusive presumptions about consent. See student notes LPG1.1.14 Rape and Assault by Penetration

Section 3 Sexual Offences Act 2003: Sexual assault

Section 3 makes it an offence for a person (A) intentionally to touch sexually another person (B) without that person's consent, if he does not reasonably believe that B consents. Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.

Touching

Section 79(8) of the Act defines 'touching'

'Touching' covers all physical contact, including touching with any part of the body, with anything else and through anything, for example, through clothing.

This could for example, be where a person rubs up against someone's genitalia through the person's clothes for sexual gratification.

Section 4 Sexual Offences Act 2003: Causing a person to engage in sexual activity without consent

A person (A) commits an offence if he intentionally causes another person (B) to engage in a sexual activity; (B) does not consent to engaging in the activity and (A) does not reasonably believe that (B) consents.

Sections 5 to 8 of the Sexual Offences Act 2003: Rape and other offences against children under 13

Sections 5 to 8 apply the main non-consensual offences to children under 13. Whether the child consented to the relevant act is irrelevant for the purpose of offences against under 13 year olds.

A child under 13 does not, under any circumstances, have the legal capacity to consent to any form of sexual activity.

Section 5 of the Sexual Offences Act 2003: Rape of a child under 13

Section 5 of the Sexual Offences Act 2003 makes it an offence for a person intentionally to penetrate with his penis the vagina, anus or mouth of a child under the age of 13.

Whether or not the child consented to this act is irrelevant.

Rape and rape of a child under 13 are the only offences within the Act which can only be committed by a man, because they relate to penile penetration.

Section 6 Sexual Offences Act 2003: Assault of a child under 13 by Penetration

Section 6 makes it an offence for a person to intentionally penetrate sexually the vagina or anus of a child under the age of 13 with a part of his body, such as a finger, or with anything else, such as a bottle or other object. The penetration must be sexual as defined in Section 78.

A child under the age of 13 lacks the capacity to consent and so the defendant's belief in consent is irrelevant.

Section 7 Sexual Offences Act 2003: Sexual assault of a child under 13

Section 7 of the Sexual Offences Act 2003 makes it an offence for a person to intentionally touch sexually a child under the age of 13.

This could include, for example, where a person rubs up against the child's genitalia through the child's clothes for sexual gratification. It also includes penetration.

Section 8 Sexual Offences Act 2003: Causing, encouraging or assisting a child under 13 to engage in sexual activity

Section 8 of the Sexual Offences Act 2003 makes it an offence for a person intentionally to cause, encourage or assist a child under the age of 13 to engage in sexual activity.

Sections 9 to 15 Sexual Offences Act 2003: Child sex offences

For the purposes of the child sex offences at Sections 9 to 15 whether or not the child consents to the sexual activity is immaterial. The fact that a child gives alleged consent to sexual activity is only relevant in as much as it may absolve the defendant of a non-consensual offence such as rape or sexual assault where the child is over 13.

A child under 13 is unable to give legal consent and therefore the defendant's belief in consent will not be relevant. The purpose of the offences is to provide a means of prosecuting a person who secures the consent of a child through pressure but stops short of coercion so that a non-consensual offence cannot be proved.

Section 9 Sexual Offences Act 2003: Sexual activity with a child

It is an offence for a person aged 18 or over (A) to intentionally touch another person (B) where the touching is sexual, and either—

- (i) B is under 16 and A does not reasonably believe that B is 16 or over, or
- (ii) B is under 13.

If the touching involves any of the activities listed here then the defendant would be liable on indictment as opposed summary conviction.

Section 10 Sexual Offences Act 2003: Causing, encouraging or assisting a child to engage in sexual activity

Section 10 of the Sexual Offences Act 2003 makes it an offence for a person aged 18 or over intentionally to cause, encourages or assists a child aged under 16 to engage in sexual activity.

Section 11 Sexual Offences Act 2003: Engaging in sexual activity in the presence of a child

Section 11 of the Sexual Offences Act 2003 makes it an offence for a person aged 18 or over intentionally to engage in sexual activity in order to gain sexual gratification, when a child aged under 16 is present or in a place from which the defendant can be observed by that child.

Section 12 Sexual Offences Act 2003: Causing a child to watch a sexual act

A person aged 18 or over (A) commits an offence if-

- (a) for the purpose of obtaining sexual gratification, he intentionally causes another person (B) to watch a third person engaging in an activity, or to look at an image of any person engaging in an activity,
- (b) the activity is sexual, and

(c) either-

- (i) B is under 16 and A does not reasonably believe that B is 16 or over, or
- (ii) B is under 13.

Section 12 of the Sexual Offences Act 2003 makes it an offence for a person intentionally to cause a child aged under 16, for the purpose of the sexual gratification of himself/herself, to watch a third person engaging in sexual activity or to look at an image of a person engaging in sexual activity.

Section 63 Sexual Offences Act 2003: Trespass with intent to commit a sexual offence

Section 63 makes it an offence for:

(A) to intend to commit a 'relevant sexual offence' whilst he is on any premises where he is a trespasser, either knowing, or being reckless as to whether, he is trespassing. A person is a trespasser if he is on any premises without the owner or occupier's consent, or other lawful excuse.

Section 66 Sexual Offences Act 2003: Exposure

This offence is commonly known as 'flashing'.

A person commits an offence if:

- a) they intentionally expose their genitals and
- b) they intend that someone will see them and be caused alarm or distress.

This section makes it an offence for either a man or woman to intentionally expose their genitalia, intending that someone will see them and, as a result, be caused alarm or distress.

Section 67 Sexual Offences Act 2003: Voyeurism

The more common name of a 'peeping tom' is still used to describe voyeurs: those people who secretly watch others undress or performing some sexual act, for their own sexual gratification.

There are in fact four separate offences that can be committed under this Section but the offence you are more likely to come across is contained within sub-section 1:

A person commits an offence if:

- a) for the purpose of obtaining sexual gratification, they observe another person doing a private act, and
- b) they know that the other person does not consent to being observed for their sexual gratification.

Section 69 Sexual Offences Act 2003: Intercourse with an animal

Section 69 of the Act makes it an offence for a man intentionally to penetrate the vagina or anus of a living animal with his penis where he knows or is reckless as to whether that is what he is penetrating.

Subsection (2) makes it an offence for a person intentionally to cause or allow her vagina or his or her anus to be penetrated by the penis of a living animal where he or she knows or is reckless as to whether that is what is doing the penetrating.

This offence is related solely to penile penetration in relation to animals and does not replace existing legislation covering cruelty to animals.

Section 70 Sexual Offences Act 2003: Sexual penetration of a corpse

Section 70 of the Act makes it an offence for a person intentionally to penetrate any part of the body of a dead person with, a part of their body or anything else, where that penetration is sexual.

The offence is committed when the person knows or is reckless as to whether he is penetrating any part of a dead body.

Section 71 Sexual activity in a public toilet

1. A person commits an offence if –
 - a) he is in a lavatory to which the public have access, whether on payment or otherwise,
 - b) he intentionally engages in an activity, and,

- c) the activity is sexual.
2. For the purpose of this section, an activity is sexual if a reasonable person would, in all the circumstances but regardless of any person's purpose, consider it to be sexual.

This Section makes it an offence for a person to engage in sexual activity in a public lavatory.

Sections 63-67 Possession of Extreme Pornographic Images – Criminal Justice and Immigration Act 2008

There are three elements to the offence. An image must come within the terms of all three elements before an offence is committed. Those elements are:

1. the image is pornographic
2. the image is grossly offensive, disgusting, or otherwise of an obscene character, and
3. the image portrays in an explicit and realistic way, one of the following extreme acts:
 - a) an act which threatens a person's life;
 - b) an act which results in or is likely to result in serious injury to a person's anus, breasts or genitals;
 - c) an act involving sexual interference with a human corpse
 - d) a person performing an act of intercourse or oral sex with an animal (whether dead or alive),

and a reasonable person looking at the image would think that the people and animals portrayed were real.

Section 62, Coroners and Justice Act 2009 – Possession of prohibited images of a child

It is an offence for a person to be in possession of a prohibited image of a child.

A 'prohibited image' means any image which is:

- a) pornographic; or
- b) focuses solely or mainly on a child's genitals or anal region; or
- c) portrays any:

- performance by a person of an act of intercourse or oral sex with or in the presence of a child,
 - act of masturbation by, of, involving or in the presence of a child,
 - act which involves penetration of the vagina or anus of a child with a part of a person's body or with anything else,
 - act of penetration, in the presence of a child, of the vagina or anus of a person with a part of a person's body or with anything else,
 - performance by a child of an act of intercourse or oral sex with an animal (whether dead or alive or imaginary),
 - performance by a person of an act of intercourse or oral sex with an animal (whether dead or alive or imaginary) in the presence of a child,
- d) and is grossly offensive, disgusting or otherwise of an obscene character.

Civil Court Orders available to prevent Sexual offending

a) Notification Orders (Sec. 80)

A chief officer of police can apply to the court for a Notification Order where an individual has been convicted, cautioned or had a relevant finding against them abroad for sexual offences that are equivalent to those listed in Schedule 3 to the Sexual Offences Act 2003.

b) Sexual Offences Prevention Orders (Sec.104)

A Sexual Offences Prevention Order can be made by a court when dealing with an offender for a specific offence or on the application of a chief officer of police in respect of an offender who has been convicted, cautioned or had a relevant finding of guilt made against them in respect of a specified offence.

c) Foreign Travel Orders (Sec. 114)

A Foreign Travel Order enables the courts, on the application of a Chief officer of police, to prohibit those convicted of child sexual offences against children from travelling overseas where there is evidence that the offender's behaviour makes it necessary to make such an order for the purpose of protecting children or any child under the age of 18 years from serious sexual harm outside the UK.

d) Risk of Sexual Harm Orders (Sec. 123)

A court can only make a Risk of Sexual Harm Order if they are satisfied that at least two specified acts have occurred (e.g. engaging in sexual communications or sexual activity with a child) and that it is necessary to protect children from harm by a person aged 18 years or over.

Offences Relating to Designated & Accredited Persons (LPG2_1_06) v1.00

The Police Reform Act 2002 creates offences against accredited and designated persons.

Accredited persons are:

a person in relation to whom an accreditation under Section 41 is for the time being in force, 'accredited' means those persons employed by 'other' agencies such as local councils who are authorised to issue Fixed Penalty Notices and Penalty Notices for Disorder for such offences as:

- Cycling on a footway
- Graffiti or fly-posting
- Litter
- Dog Control Orders

And those persons from Trading Standards (accredited inspectors).

Designated persons are:

Police Community Support Officer, Investigating Officer, Detention Officer, Escort Officer or employees of companies contracted to provide detention or escort services.

Offences against accredited persons/accredited inspectors or designated persons are listed under three main areas:

1. Any person who assaults:

- an accredited person/accredited inspector in the execution of his duty
- a designated person in the execution of his duty
- a person assisting an accredited person/accredited inspector or designated person in his duty.

2. Any person who resists or willfully obstructs:

- an accredited person/accredited inspector in the execution of his duty
- a designated person in the execution of his duty, or
- a person assisting an accredited person/accredited inspector or designated person in execution of his duty.

3. Any person, who with intent to deceive:

- impersonates an accredited person/accredited inspector or a designated person
- makes any statement or does any act calculated falsely to suggest that he is an accredited person/accredited inspector or that he is a designated person, or
- makes any statement or does any act calculated falsely to suggest that he has powers as an accredited person/accredited inspector or designated person.

Code of Practice, Practicalities and Documentation for Searching Premises (LPG2_4_02) v1.00

PACE Code of Practice B: Deals with police powers to:

- search premises
- seize and retain property found on premises and persons

These powers may be used to find:

- property and material relating to a crime
- wanted persons
- children who abscond from local authority accommodation where they have been remanded or committed by a court

A Justice of the Peace may issue a search warrant granting powers of entry, search and seizure, e.g. warrants to search for stolen property, drugs, firearms and evidence of serious offences.

In all cases, police should:

- exercise their powers courteously and with respect for people and their property
- only use reasonable force when this is considered necessary and proportionate to the circumstances

If the intention is to search premises under the authority of a warrant or a power of entry and search without warrant, and the occupier of the premises co-operates in accordance with paragraph 6.4 of Code B there is no need to obtain written consent.

Considerations when searching premises

Below are listed a number of considerations concerning search warrants:

- searches made under warrant must be made within three calendar months of the date of the warrant's issue
- a search must be made at a reasonable hour unless this might frustrate the purpose of the search
- when the extent or complexity of a search means it is likely to take a long time, refer Section 7 of Code B
- under Section 8 of PACE a constable can apply for two different types of search warrant:
 - **Specific premises warrant** – for the search of one set of premises which must specify all the relevant premises at the time the application is made.
 - **All premises warrant** – requires that the application must specify as many premises that can be named, identify the occupier or controller of the premises and state why it is necessary to search more premises than can be specified and why it is not reasonably practicable to specify all the premises at the time of the application. Premises which are not specified in the warrant must not be entered and searched without the prior written authority of an officer of the rank of inspector who is not involved in the investigation.
- **Multiple entries** – if an application is sought allowing for multiple entries to a single set of premises or to more than one single premise, the

number of entries may be unlimited or limited to a maximum. It will be for the officer to satisfy the court on application.

NOTE - No premises may be entered or searched on any subsequent occasions without the prior written authority of an officer of the rank of inspector who is not involved in the investigation. All other warrants authorise entry on one occasion only.

Entry other than with consent

The officer in charge of the search shall first try to communicate with the occupier, or any other person entitled to grant access to the premises. They should explain the authority under which entry is sought and ask the occupier to allow entry, unless:

- the search premises are unoccupied
- the occupier and any other person entitled to grant access are absent
- there are reasonable grounds for believing that alerting the occupier or any other person entitled to grant access would frustrate the object of the search or endanger officers or other people

If the premises are occupied the officer, subject to paragraph 2.9, shall, before the search begins:

- identify themselves, show their warrant card (if not in uniform) and state the purpose of and grounds for the search
- identify and introduce any person accompanying the officer on the search (such persons should carry identification for production on request) and briefly describe that person's role in the process

Notice of power and rights

If an officer conducts a search to which this Code applies the officer shall, unless it is impracticable to do so, provide the occupier with a copy of a notice in a standard format.

Conduct of Searches

Premises may be searched only to the extent necessary to achieve the object of the search, having regard to the size and nature of whatever is sought.

The Code states: A search may not continue under:

- a warrant's authority once all the things specified in that warrant have been found
- any other power once the object of that search has been achieved

Leaving premises

Code B states that if premises have been entered by force, before leaving the officer in charge of the search must make sure they are secure by:

- arranging for the occupier or their agent to be present
- any other appropriate means

Searches under PACE Schedule 1 or the Terrorism Act 2000, Schedule 5

Searches under PACE or the Terrorism Act 2000 state that an officer shall be appointed as the officer in charge of the search, in respect of any search made under a warrant issued under PACE Act 1984, Schedule 1 or the Terrorism Act 2000, Schedule 5. They are responsible for making sure the search is conducted with discretion and in a manner that causes the least possible disruption to any business or other activities carried out on the premises.

Circulation of Persons Wanted or Suspected (LPG2_4_04)

v1.00

Persons Wanted: Persons may be described as 'wanted' if, during the course of an investigation, sufficient information exists for them to be interviewed as a suspect in the investigation. There are two categories of 'wanted':

A person may be 'wanted', in other words their whereabouts sought for interview for the offence being investigated, or, the circumstances may exist for them to be arrested with regard to the offence being investigated.

When circulating the person, it is important to differentiate between the person being wanted for interview and wanted for arrest, and in addition the reasons for arrest will have to be specified.

Persons Suspected: If we had a description of the suspect, but no identity, then we would have to circulate the person as being 'suspected', giving any description we had, along with the offence and grounds for arrest. If there are insufficient grounds to arrest, but we need to speak to that person, then they would be circulated as 'whereabouts sought for interview.'

Circulating Persons

There are several methods available to you to do this. The most obvious method, in the immediate aftermath of an incident, is to circulate the details of the individual via your communications centre for immediate observations and actions by your colleagues. Even if you have full details of the person you want, you should still pass out as full a description as possible, especially of clothing if the incident is very recent. You must also, if requesting an arrest to be made, give the details of the offence and the reasons for the arrest being necessary.

If your initial circulation is fruitless, but the individual is known to live locally, it may be appropriate to circulate the individual locally for attention of all officers at briefings.

If that action proves fruitless, or the individual is known to live outside of your local area, then your last resort is national circulation via the PNC (see Student Notes LPG1.4.07 Police Communications).

Search Warrants (LPG2_4_06) v1.00

Section 15, Police and Criminal Evidence Act 1984-Application for Search Warrant - Safeguards.

Interpretation of Section 15 of PACE: This section applies to all warrants to enter and search premises, including those issued to designated investigating officers.

'Premises' is defined in Section 23 of PACE and includes any place, vehicle, vessel, aircraft, hovercraft, tent or moveable structure, and any offshore installation as defined in the Mineral Workings (Offshore Installations) Act 1971 Section 1 (which basically means oil or other drilling rigs, and the accommodation platforms or vessels associated with them). Also included are any renewable energy installations.

Section 15 deals with the issuing of the warrant, and makes specific mention of the office of constable in its wording. Under the provisions of the Police Reform Act 2002 an investigating officer designated under that Act has the same powers under this section, so for 'constable' also read 'designated investigating officer'.

When a constable (or designated investigating officer) applies for a warrant to search premises, they will be required to state the grounds for the warrant, and what legislation it would be issued under. The applicant must state or describe the articles or persons being sought, and also specify at which premises it is to be executed. If the warrant is for entry and search on more than one occasion, it must state the ground on which the application for such a warrant is made and whether an unlimited number of entries is required, or (if not) the maximum number of entries desired.

Often, an investigation can point to any number of premises where it would be desirable to execute a warrant. Rather than having to obtain a separate warrant for each premise, the applicant may apply for any number of premises on the same warrant, provided information is supplied as to which premises they are, and who is in occupation or control of each of the premises. If there are more premises than it is reasonable to specify, then this must be stated, as must the reason why it is necessary to search more premises than are stated, and why it is not reasonably practicable to specify them all.

The constable or designated investigating officer applying for the warrant will make their request under oath, and as such they are required to answer any questions that the justice or judge puts to them regarding the matter.

The warrant itself can authorise entry to a property once only unless it is a warrant under Section 8 PACE in which case it may be executed **as often as is required for the purposes to which the warrant is put and is stated on**

the warrant. A warrant for multiple, entry must state whether the number of entries authorised is unlimited, or limited to a specified maximum.

The warrant itself must state on it: -

- (a) the name of the person who applied for it
- (b) the date on which it was issued
- (c) which piece of legislation it was made under
- (d) the premises to be searched, or in the case of an all premises warrant, the name of the person in occupation or control of the premises, together with as much information as possible to identify the premises
- (e) the articles or persons sought

Two additional copies of the warrant need to be made, each clearly marked as "Copy".

LPG 0 Quick Notes

Animal Welfare and Dogs (LPG0_1_03) v1.00

Media attention in respect of animal welfare tends to attract a great deal of public interest and each time a child is attacked and injured by a dog there are calls for tighter legislation.

Similarly, when animals themselves are subject to abuse or neglect then this also raised questions about whether or not the law is sufficient. The legislation below no doubt reflects public feeling and opinion.

This Act looks at the welfare of farmed and non-farmed animals and brings together several areas of legislation in order to promote the welfare of vertebrate animals, other than those in the wild.

Animal Welfare Act 2006

The main aims of the Act are listed below

- reduce animal suffering by enabling preventive action to be taken before suffering occurs
- impose the duty on those responsible for domestic and companion animals to do all that is reasonable to ensure the welfare of their animals
- extend the existing power to make secondary legislation to promote the welfare of farmed animals to non-farmed animals, bringing legislation for non-farmed animals in line with that for farmed animals
- deter persistent offenders by strengthening penalties
- simplify the legislation for enforcers and animal keepers by consolidating over 20 pieces of legislation into one
- extend to companion animals welfare codes agreed by Parliament (a mechanism currently used to provide guidance on welfare standards for farmed animals)
- strengthen and amend current offences related to animal fighting
- increase the effectiveness of law enforcement for animal welfare offences

- increase from 12 to 16 the minimum age at which a child may buy an animal, and prohibit the giving of pets as prizes to unaccompanied children under the age of 16
- ban mutilations of animals (with certain specified exemptions)

It is likely that you will come across some, but certainly not all of the offences we are going to look at depending on the geographical and topographical makeup of the area in which you work.

Dogs wearing collars

The Control of Dogs Order 1992 introduced a number of measures, to be enforced by local authority officers rather than the police, requiring dogs to be kept under proper control in public places.

Subject to paragraph (2) of the Act every dog while in a highway or in a place of public resort shall wear a collar with the name and address of the owner inscribed on the collar or on a plate or badge attached to it.

Animal Welfare (Electronic Collars) (Wales) Regulations 2010

These regulations are made under section 12 of the Animal Welfare Act 2006. It prohibits the use on cats and dogs of any electronic collar designed to administer an electric shock.

These regulations apply in relation to **Wales** only.

Trespass (LPGO_1_04) v1.00

The definition of a trespasser is "a person who commits the act of trespassing on a property, that is, without the permission of the owner. Being present on land as a trespasser thereto creates liability in the trespasser, so long as the trespass is intentional".

The subject of trespass, and the offences and remedies laid out within the legislation, are all extremely complex.

The principal legislation that deals with trespass is the Criminal Law Act 1977, and this should be studied. There are some definitions within that Act relevant to these notes:

Displaced Residential Occupier (section 12)

Any person who was occupying any premises as a residence immediately before being excluded from occupation by anyone who entered those premises, or any access to these premises, as a trespasser is a displaced residential occupier.

Protected Intending Occupiers (section 12A)

A protected intending occupier is someone with a freehold or leasehold interest in the premises which has at least two years left to run, who needs the premises for his or her own occupation as a residence, and who has been excluded from those premises by a trespasser. Such a person must have to prove his or her right to occupy the premises in the form of a written statement in which the protected intending occupier specifies his or her interest in the premises, states that he or she requires the premises for occupation as a residence for him or herself and which is witnessed by a Justice of the Peace or Commissioner for Oaths.

Section 6 Violence for securing entry

From an examination of this section, we can say that:

- The provisions of the Act refer to any premises and the access to it, including residential property.
- No one can use or threaten violence to secure entry to any premises for himself or another person while he or she knows that there are persons inside (present on) the premises who are opposed to the entry.
- The above points are valid even if the person using, or threatening to use, violence has a right to possess or occupy the premises in question.

There are, it would appear, exceptions to the prohibition of violence in section 6 of the Act, namely:

- If the person seeking to enter or re-enter has lawful authority e.g. a warrant or writ issued by a court.
- If the premises are empty i.e. there is nobody there opposed to the entry.

- If the person seeking to enter or re-enter is a displaced residential occupier or a protected intending occupier.

It appears from the above points that it's lawful to use or threaten violence in the above circumstances but it is unlikely that the law is intended to give unlimited authority for a displaced residential occupier or a protected intending occupier to use excessive violence. The purpose of this part of the Act is so that a minimal degree of violence can be threatened and/or used in the specific circumstance of regaining entry. The Act gives no indication as to the degree of violence that may be used. It simply says that a displaced residential occupier or a protected intending occupier (or someone acting on their behalf) is not guilty of an offence under section 6(1) if violence is used or threatened against persons or property in order to gain entry to premises. If, of course the premises are unoccupied at the time of entry there is no question of violence against a person. Should the violence, used or threatened, be excessive, it is possible that there would be an offence of assault.

Section 7 Adverse occupation of residential premises

This section creates the offence of remaining on residential premises as a trespasser after being required to leave by a displaced residential occupier or protected intending occupier. Case law has established that the intended occupation does not have to be immediate.

Section 8 Trespassing with a weapon of offence.

This section states that any trespasser carrying a "weapon of offence" on the premises that are the place of trespass is guilty of an offence, but does not specify a particular type of weapon. There is other legislation in respect of this aspect of trespassing, namely the Firearms Act 1968. Section 20 of that Act refers specifically to firearms and states that it is an offence to enter any building or land as a trespasser with a firearm or imitation firearm without reasonable excuse.

The above may be summarised thus:

- Any trespasser who remains on a residential property after being required to leave by a displaced residential occupier of the premises or a protected intending occupier of the premises commits an offence.
- Nobody can use violence against persons or property in order to regain entry to premises unless he or she is a displaced residential occupier or a protected intending occupier of the premises in question or someone who is acting on behalf of such an occupier (but this does not confer a right to use excessive violence).
- A protected intending occupier must have a document witnessed by a Justice of the Peace or Commissioner for Oaths to prove his or her right to occupy the premises.
- Any trespasser carrying a “weapon of offence” on the premises that are the place of trespass is guilty of an offence.

Dealing with trespass, even at its simplest, is best carried out by those with experience, and officers meeting the problem are recommended to seek assistance from others in their force.

Powers and Action

The offences outlined in these notes carry the power of arrest under the Police and Criminal Evidence Act 1984, but it may be better to defuse the situation, if it is possible to do so, before taking this course of action. Clearly, in most cases, what the aggrieved person wants most is to return to his or her property, and if this can be achieved peacefully it is probably the best method of dealing with the problem. If the trespasser is carrying a “weapon of offence” contrary to section 8 of the Criminal Law Act, the situation may be different and arrest may be the option to take. It depends on the circumstances. If possible, contact the appropriate point within your force before taking any action, and always ensure that you keep a full record of the incident.

There is one other offence that may be encountered in respect of trespass. Under Section 128 of the Serious Organised Crime and Police Act 2005 it is an offence to trespass on a “protected site”. Protected sites are:

- A nuclear site
- A designated site

in England and Wales or Northern Ireland

A nuclear site is self explanatory. A designated site is one that has been so designated by the Secretary of State. Forces will be aware of such sites within the force boundaries.

Section 129 of the same Act creates a corresponding Scottish offence.

Enclosed Premises (LPGO_1_05) v1.00

Vagrancy Act 1824 – Section 4

“It is an offence for any person to be found in or upon any **enclosed premises** for **any unlawful purpose**”.

Power of arrest – constables only

The Act defines enclosed premises as any dwelling house, warehouse, coach house, stable or outhouse or in any enclosed yard, garden or area for any unlawful purpose.

The **unlawful purpose** has got to be with regard to a specific criminal offence, and you should note that simple trespass is not a criminal offence.

Firearms, Air Weapons and Crossbows (LPGO_1_06) v1.02

A firearm is defined in Section 57 of the Firearms Act 1968 as:

“.....a lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged and includes:

- a) any prohibited weapon, whether it is such a lethal weapon as aforesaid or not; and
- b) any component part of such a lethal or prohibited weapon; and

- c) any accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon”

Section 1 Firearms

‘Section 1 Firearm’ means any firearm and/or ammunition for it **except:**

- a) shotguns
- b) standard air weapons
- c) blank ammunition (not more than 1 inch in diameter) and 1(4) the exception applies to cartridges containing five or more shot, none of which exceeds .36 inch in diameter and to ammunition for an air gun, air rifle or air pistol

Any other firearm or ammunition is classed as a Section 1 Firearm and can only be possessed by the holder of a Firearms Certificate or some other lawful authority such as a registered firearms dealer, member of the armed forces, police officer, etc. By virtue of the Firearms Act 1982, certain imitation or replica firearms now fall within the Section 1 definition.

Permitted possession of Section 5 weapons and ammunition

Section 5A of the Firearms Act 1968 allows the possession of prohibited weapons and ammunition without the authority of the Secretary of State if they are:

- a) authorised collectors and firearms dealers possessing or being involved in transactions of weapons or ammunition
- b) authorised people being involved in transactions of particular ammunition used for lawful shooting and slaughtering of animals, the management of an estate or the protection of other animals and humans

Possession of a firearm or ammunition without a certificate

Section 1 of the Firearms Act 1968 states:

Subject to any exemption under this Act, it is an offence for a person :

- a) to have in his possession, or to purchase or acquire, a firearm to which this section applies without holding a firearm certificate in force

at the time, or otherwise than as authorised by such a certificate

b) to have in his possession, or to purchase or acquire, any ammunition to which this section applies without holding a firearm certificate in force at the time, or otherwise than as authorised by such a certificate, or in quantities in excess of those authorised

Power of arrest – any person

Shotguns

The procedure for obtaining a shotgun certificate is similar to obtaining a Section 1 Firearms Certificate, the difference is that there is no limit to the number of shotguns which may be possessed on one certificate, provided their details are entered on the certificate when they are purchased or acquired.

Offences in relation to shot gun certificates

Possess a shotgun without a certificate - Section 2(1) Firearms Act 1968 states:

“Subject to any exemption under this Act, it is an offence for a person to have in his possession, or to purchase or acquire, a shotgun without holding a certificate under this Act authorising him to possess shot guns.”

Power of arrest – any person

Failing to comply with the conditions of a shotgun certificate - Section 2(2) Firearms Act 1968 states:

“It is an offence for a person to fail to comply with a condition subject to which a shotgun certificate is held by him.”

Power of arrest – constables only

The law allows for various exemptions to the requirement to hold a valid shotgun or section 1 certificate when possessing, acquiring, buying, selling or transferring section 1 firearms or ammunition, or shotguns.

Air Weapons

An air weapon relies on the pressure of compressed air to launch a projectile. There is no explosive charge involved. Air weapons do not therefore require certification provided they do not rely on a self contained gas cartridge to fire them (in which case they are a prohibited weapon) or are declared by the Secretary of State as being particularly dangerous (in which case they require section 1 certification).

The Firearms (Dangerous Air Weapons) Rules 1969 states 'an air weapon is declared especially dangerous if:

- a) on discharge from the muzzle there is a kinetic energy in excess of 6ft/1lb in the case of an air pistol, or 12ft/1lb in the case of an air weapon other than an air pistol or;
- b) it is disguised as another object

Section 46 of the Crime and Security Act 2010 inserts a new section 24ZA into the Firearms Act 1968, which makes it an offence for a person in possession of an air weapon to fail to take reasonable precautions to prevent someone under the age of 18 from gaining unauthorised access to it. A defence is provided where a person can show he had reasonable grounds for believing the other person to be aged 18 or over.

Offences Relating to Firearms

Having a firearm or imitation firearm in a public place – Section 19

Firearms Act 1968

"A person commits an offence if, without lawful authority or reasonable excuse (the proof of whereof lies on him) he has with him in a public place:

- a) a loaded shotgun
- b) an air weapon (whether loaded or not)
- c) any other firearm (whether loaded or not) together with ammunition suitable for use in that firearm, or
- d) an imitation firearm"

Power of arrest – any person

Possession of a valid certificate does not necessarily provide lawful authority – it may be a breach of the conditions of the certificate for that person to be in that place with that weapon.

Trespassing with a firearm in a building – Section 20(1) Firearms Act 1968

Triable either way unless the weapon is an imitation firearm or air weapon in which case it is summary – any person power of arrest for either way offence, police power only if summary.

A person commits an offence if, while he has a firearm or imitation firearm with him, he enters or is in any building or part of a building as a trespasser and without reasonable excuse (the proof whereof lies on him).

Safety

Irrespective of any previous knowledge of firearms you may have you should always assume a firearm is loaded, and leave it alone until the appropriate specialist arrives.

Crossbows

Crossbows are not firearms. Legislation regarding crossbows refers to those with a draw weight (the amount of load needed to pull the bowstring back) of at least 1.4Kg. (Section 5 of the Crossbows Act 1987)

Selling or letting on hire a crossbow to a person under 18 – section 1 Crossbows Act 1987

A person who sells or lets on hire a crossbow or a part of a crossbow to a person under the age of 18 is guilty of an offence, unless he believes him to be 18 years of age or older and has reasonable grounds for that belief.

Power of arrest – constables only

Purchase or hire of crossbow by person under 18 - section 2 Crossbows Act 1987

A person under the age of 18 who buys or hires a crossbow or a part of a crossbow is guilty of an offence.

Power of arrest – constables only

Person under 18 having crossbow - Section 3 Crossbows Act 1987

A person under the age of 18 who has with him: –

- a) a crossbow which is capable of discharging a missile, or
- b) parts of a crossbow which together (and without any other parts) can be assembled to form a crossbow capable of discharging a missile,

is guilty of an offence, unless he or she is under the supervision of a person who is 21 years or older.

Power of arrest – constables only

Power of search and seizure

Section 4 Crossbows Act 1987 states:

If a constable suspects with reasonable cause that a person is committing or has committed an offence under Section 3 of this Act, the constable may:

- a) search that person for a crossbow or part of a crossbow
- b) search any vehicle, or anything in or on any vehicle, in or on which the constable suspects with reasonable cause there is a crossbow, or part of a crossbow, connected with the offence

In order to exercise this power a constable may detain a person or vehicle for the purposes of the search and may enter any land other than a dwelling house

Football Offences (LPGO_1_07) v1.00

This legislation makes provisions in respect of disorderly conduct by persons attending designated football matches.

Designated Football Match (section 1)

Section 1 of the Football (Offences) Act 1991 provides the meaning of 'Designated football match' and determines the times when associated offences may be committed.

Times are generally 2 hours before the start of a match and 1 hour afterwards.

Article 3 of the Football (Offences) (Designation of Football Matches) Order 2004 defines a designated football match which is an association football match in which one or both of the participating teams represents a club which is for the time being a member (whether a full or associate member) of the Football League, the Football Association Premier League, the Football Conference or the League of Wales, or represents a country or territory.

Throwing of Missiles (section 2)

Section 2 of the Football (Offences) Act 1991 creates an offence of throwing objects during a 'designated football match'.

It is an offence for a person at a designated football match to throw anything at or towards –

- (a) the playing area, or any area adjacent to the playing area to which spectators are not generally admitted, or
- (b) any area in which spectators or other persons are or may be present without lawful authority or lawful excuse (which shall be for him to prove)

Indecent or racist chanting (section 3)

Section 3 of the Football (Offences) Act 1991 creates the offence of indecent or racist chanting during designated football matches.

In this sense:

- (a) chanting means the repeated uttering of any words or sounds (whether alone or in concert with one or more others); and
- (b) of a racist nature means consisting of or including matter which is threatening, abusive or insulting to a person by reason of his colour, race, nationality (including citizenship) or ethnic or national origins.

Other Offences

Section 4 of the Football (Offences) Act 1991 creates the offence of going onto the playing area during a designated football match.

It is an offence for a person at a designated football match to go onto the playing area, or any area adjacent to the playing area to which spectators are not generally admitted.

Without lawful authority or lawful excuse, the onus of which is in the defendant.

Police Powers

These are Summary Offences

Arrest without warrant (constable only)

Handling Stolen Goods (LPG0_1_08) v1.00

There is a theory that if we could prevent the exchange of stolen goods for money, there would be fewer thefts. The legislators when enacting the 1968 Theft Act may have had this in mind, since they provided a maximum sentence of seven years for theft, but fourteen for handling stolen goods.

Handling Stolen Goods – Section 22 Theft Act 1968 defines the offence as when a person:

Otherwise than in the course of stealing, knowing or believing them to be stolen goods:

- dishonestly receives the goods, or
- dishonestly undertakes or
- assists in their retention, removal, disposal or realisation, by or
- for the benefit of another, or if he arranges to do so.

Power of arrest without warrant – constables / other persons

Special evidence

There are also statutory provisions relating to special evidence which could help prove this element of the offence and guilty knowledge.

The practical difficulties involved in proving 'guilty knowledge' have always been present. Section 27 of the Theft Act 1968 was introduced to deal with this issue.

The section provides:

'Where a person is being proceeded against for handling stolen goods (but not for any other offence), then at any stage in the proceedings, if evidence has been given of his having or arranging to have in his possession the goods subject of the charge, or of his undertaking or assisting in, or arranging to undertake or assist in their retention, removal, disposal or realisation, the following evidence shall be admissible for the purpose of proving that he knew or believed to be stolen goods:

- a. evidence that he has had in his possession, or has undertaken or assisted in the retention, removal, disposal or realisation, of stolen goods from any theft taking place not earlier than twelve months before the offence charged; and
- b. (provided that seven days notice in writing has been given to him of the intention to prove the conviction), evidence that he has within the five years preceding the date of the offence charged been convicted of theft or handling stolen goods.'

Manufacture, Sale, Hire, Import of Offensive Weapons and Sale of Knives for Combat (LPGO_1_09) v1.00

Flick Knife

Any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife.

Gravity Knife

Any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force and which when released, is locked in place by means of a button, spring, lever, or other device.

Offence

For any person to manufacture, sell or hire or offer for sale or hire or expose or have in their possession for the purpose of sale or hire, or lend or give to any other person a 'flick knife' or 'gravity knife'.

Section 1, Restriction of Offensive Weapons Act 1959.

Triable Summarily – Power of arrest without warrant – constable only.

Possession: Must prove physical control and knowledge of possession for offence under Section 1 Restriction of Offensive Weapons Act 1959 and Section 141(1) Criminal Justice Act 1988.

Offence

For any person to manufacture, sell, hire or offer for sale or hire, expose or have in their possession for the purpose of sale or hire, or lend or give to any other person, a weapon to which section 141 applies.

Section 141(1), Criminal Justice Act 1988

Triable summarily – Power of arrest without warrant – constable only.

Act provides three statutory defences applicable to crown or visiting forces, Museums or Galleries and Persons acting on behalf of a museum or gallery.

Section 2(1) Restriction of Offensive Weapons Act 1959 and Section 141(4) Criminal Justice Act 1988 both prohibit importation of any weapon to which the sections apply. (The actual offence of improper importation is created by Section 50(2) and (3), Custom and Excise Management Act 1979).

Triable either way – power of arrest without warrant – any person.

Selling knives to person under 18

Offence

For any person to sell a person under the age of eighteen years any knife, knife blade or razor blade, any axe or any article which has a blade or which is sharply pointed and which is made or adapted for use for causing injury to the person.

Section 141A, Criminal Justice Act 1988.

Triable summarily – power of arrest without warrant – constable only.

Exemptions: Does not apply to folding pocket knives with cutting edge not exceeding three inches (7.62 cm) or certain types of razor blade in a cartridge where not more than 2 mm of the blade is exposed; or

Any article described in Section 1, Restriction of Offensive Weapons Act 1959 or in an order made under section 141(2), Criminal Justice Act 1988.

Act provides statutory defence to prove accused took all reasonable precautions and exercised due diligence to avoid committing the offence.

Marketing Knives for Combat

Offence

For a person to market a knife in a way which indicates or suggests that it is suitable for combat, or is otherwise likely to stimulate or encourage violent behaviour involving the use of the knife as a weapon.

Section 1, Knives Act 1997

Triable either way – power of arrest without warrant – any person

Defences - Section 3 - defence for the person charged to prove the knife was marketed for use by armed forces or as an antique or curio or as falling into a category prescribed by regulations if reasonable to market in that way and no reasonable grounds to believe person into whose possession the knife might come would use it for unlawful purposes.

Section 4 – defence if prove did not know and had no reasonable grounds for suspecting way in which knife marketed indicated/suggested it was suitable for combat or was likely to encourage violent behaviour involving use of the knife.

Section 4(3) – defence for person charged to prove they took all reasonable precautions and exercised all due diligence to avoid committing the offence.

Marketing – includes selling, hiring, offering or exposing for sale or hire and possession for those purposes.

Knife: any instrument which has a blade or which is sharply pointed.

‘Suitable for combat’: suitable for use as a weapon for inflicting injury to anyone or causing them to fear injury.

‘Violent behaviour’: any unlawful act inflicting injury to a person or causing a person to fear injury.

Malicious communications (LPG0_1_10) v1.02

Placing or sending articles – Section 51 Criminal Law Act (CLA) 1977

Any person who:

- places any article in any place whatever: or
- dispatches any article by post, rail or other means whatever of sending things from one place to another

with the intention (in either case) of inducing in some other person a belief that it is likely to explode or ignite and thereby cause personal injury or damage to property is guilty of an offence.

Power to arrest without warrant – constable/other persons

This offence is one of specific intent and for a person to be proved guilty it must be proved that they intended some other person to believe that the article that was sent or placed in a location will explode or ignite causing injury or damage. It is not necessary to have a specific person in mind as the person in whom the hoaxer intends to induce the belief.

The Criminal Law Act offence relates specifically to bomb hoaxes.

Communicating false information – Section 51 (2) CLA

A person who communicates any information which he knows or believes to be false to another person with the intention of inducing in him or any other person a false belief that a bomb or other thing liable to explode or ignite is present in any place or location whatever is guilty of an offence.

Power to arrest without warrant – constable/other persons

The means of communicating the information (as mentioned in sub section 2) can be anything including letter, telephone, e-mail, text message, or even via the internet.

It can also be either 'direct', e.g. to the station or store where the substance or article is alleged to be, or 'indirect', e.g. to a police station or radio station switchboard.

Malicious Communications Act 1988 S1

Any person who sends to another person:

1. a letter, electronic communication or article of any description which conveys
 - a) a message which is indecent or grossly offensive
 - b) a threat; or
 - c) information which is false and known or believed to be false by the sender; or
2. any article or electronic communication which is, in part or whole, of an indecent or grossly offensive nature,
3. is guilty of an offence if his purpose, or one of his purposes, in sending it is that it should, so far as falling within paragraph a or b above, cause distress or anxiety to the recipient or to any other person to whom he intends that it or its contents or nature should be communicated.

Power of arrest without warrant – constables only

Electronic communication means any communication either oral or otherwise sent by means of an electronic communications network and any communication, however sent, that is in electronic form, so it includes e-mails, text and pager messages as well as more traditional methods such as telephone calls.

This offence is not restricted to threatening or indecent communications. It can include the giving of false information provided that one of the sender's purposes in so doing is to cause distress or anxiety to any other person

Improper use of public electronic communications network - Section 127 Communications Act 2003

1. A person is guilty of an offence if he:
 - a. sends by means of a public electronic communication network a message or other matter that is grossly offensive or of an indecent, obscene or menacing character; or
 - b. causes any such message or matter to be so sent.
2. A person is guilty of an offence if, for the purpose of causing annoyance, inconvenience or needless anxiety to another, he:
 - a. sends by means of a public electronic communications network, a message that he knows to be false;
 - b. causes such a message to be sent; or
 - c. persistently makes use of a public electronic communications network.

Power of arrest without warrant – constables only

The key wording here is 'public', email and public telephones are covered under the act but not for example an internal telephone network, as it is not a public system.

Suggested Action

If you are called as first responder by the recipient of a malicious communication, the first task is to establish the type of communication. It may be either:

- A letter, package or parcel delivered by post, courier or left by some other means
- An email, text or phone call or other electronic delivery

In the case of a letter, package or parcel, the contents will determine the action to be taken. It may contain

1. A noxious substance
2. A bomb or incendiary device
3. Written material
4. A combination of 1 or 2 and 3

In the case of 1 or 2 above, the priority is to ensure the safety of the recipient, the public and yourself. However, as a general rule, if the contents are, or may be, a noxious substance, bomb or incendiary device:

- Do not handle the communication
- Report to the appropriate contact point within your force (do not use a mobile phone or force radio in the vicinity of any suspect package as this could detonate a bomb)
- Ensure that the area is cleared

If the communication is written material then, apart from the distress suffered by the recipient(s), there is no immediate physical danger. In this instance, the material is, or may be, evidence, and should be treated as such. At the scene, it may be advantageous to establish certain basic facts about the communication such as:

- The date and time it was received
- The method of posting (Royal Mail, Courier, Hand Delivery etc.)
- Who, apart from the ultimate recipient or addressee, handled it
- Whether there had been previous similar communications received and if so whether they had been kept

Any enquiries should be made, and actions undertaken, with regard for any distress felt by the victim.

If a malicious communication is received electronically, by email, phone, text etc. it is important to handle the receiving apparatus properly. Before taking

any steps to secure the apparatus or evidence, it will be advantageous to contact the Cyber Crime section within your force, and/or the CDI SPoC.

The Police and Criminal Evidence Act 1984 provides the power of arrest in respect of offences under the above acts, although immediate arrest may not always be the optimum method of proceeding.

Further Public Order Offences (LPGO_1_13) v1.02

Riot-Section1 POA 1986

(1) where twelve or more persons who are present together use or threaten unlawful violence for a common purpose and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene, to fear for his personal safety, each of the persons using unlawful violence for the common purpose is guilty of riot

(2) it is immaterial whether or not 12 or more persons use or threaten unlawful violence simultaneously

(3) the common purpose may be inferred from conduct

(4) no person of reasonable firmness need actually be, or be likely to be, present at the scene

(5) riot may be committed in private as well as in public places

The offence is committed when a person **intends** to use violence, or when he or she is **aware** that their conduct **may be** violent, to the extent that the person of reasonable firmness present at the scene would fear for their personal safety.

Community of purpose must be established to prove the offence.

Power of arrest without warrant-constables/other persons

Violent Disorder-Section 2 POA 1986

- (1) where three or more persons who are present together use or threaten unlawful violence and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of the persons using or threatening unlawful violence is guilty of violent disorder
- (2) it is immaterial whether or not the three or more use or threaten unlawful violence simultaneously
- (3) no person of reasonable firmness need actually be, or be likely to be, present at the scene
- (4) violent disorder may be committed in private as well as in public places

Power of arrest without warrant-constables/other persons

Persons of reasonable firmness: No person of reasonable firmness needs to be actually present at the scene. This term is simply an objective test by which the Court can judge the seriousness of the disturbance, using a fixed standard, which is that a person of reasonable firmness would be put in fear by the conduct.

Unlawful violence: Section 8 of the POA 1986 provides a definition of 'violence' for the purposes of the Act. It states:

'Violence' means any violent conduct, so that –

- except in the context of affray, it includes violent conduct towards property as well as violent conduct towards persons, and
- it is not restricted to conduct causing or intended to cause injury or damage but includes any other violent conduct (for example throwing at or towards a person a missile of a kind capable of causing injury which does not hit or falls short)

Use of words or behaviour or display of written material-Section 18 POA 1986

(1) a person who uses threatening, abusive or insulting words or behaviour, or displays any written material which is threatening, abusive or insulting, is guilty of an offence if:

- he intends thereby to stir up racial hatred, or
- having regard to all the circumstances racial hatred is likely to be stirred up thereby

(2) an offence under this section may be committed in a public or a private place, except that no offence is committed where the words or behaviour are used, or the written material is displayed, by a person inside a dwelling and are not heard or seen, except by other persons in that or another dwelling

Power of arrest without warrant-constables/other persons

Defence: In proceedings for an offence under this section it is a defence for the accused to prove that they were inside a dwelling and had no reason to believe that the words or behaviour used, or the written material displayed, would be heard or seen by a person outside that or any other dwelling.

Publishing or distributing written material-Section 19 POA 1986

(1) a person who publishes or distributes written material which is threatening, abusive or insulting is guilty of an offence if:

- he intends thereby to stir up racial hatred, or
- having regard to all the circumstances racial hatred is likely to be stirred up thereby

Power of arrest without warrant-constables/other persons

Note: References to the publication or distribution of written material are to its publication or distribution to the public or a section of the public.

Defence: In proceedings for an offence under this section it is a defence for an accused who is not shown to have intended to stir up racial hatred to prove that he was not aware of the content of the material and did not suspect, and had no reason to suspect, that it was threatening, abusive or insulting.

Possession of racially inflammatory material-Section 23 POA 1986

(1) a person who has in his possession written material which is threatening, abusive or insulting, or a recording of visual images or sounds which are threatening, abusive or insulting, with a view to:

- in the case of written material, its being displayed, published, distributed, or included in a programme service whether by himself or another, or
- in the case of a recording, its being distributed, shown, played, or included in a programme service, whether by himself or another,

is guilty of an offence if he intends racial hatred to be stirred up thereby or, having regard to all the circumstances, racial hatred is likely to be stirred up thereby

Power of arrest without warrant-constables/other persons

Sporting Events Control of Alcohol (LPG0_1_15) v1.00

These notes concern the measures that are in place to control the use of alcohol at sporting events, that is, to prevent drunkenness and disruptive and disorderly behaviour.

The sale of alcohol within sports grounds and at sporting events is controlled by the Licensing Act 2003. There is no special legislation regarding the hours of sale etc. as these will be set out in the licence.

There is legislation that controls the sale and consumption of alcohol on transport to and from the ground, and this is laid out in **Sporting Events (Control of Alcohol etc) Act 1985**.

The legislation applies to sports events and sports grounds designated by the Secretary of State and, at present, covers:

- Association football matches in which one or both of the participating teams represents a club which is for the time being a member (whether a full or associate member) of the Football League, the Football Association Premier League, the Football Conference National Division, the Scottish Football League or Welsh Premier League, or whose home ground is for

the time being situated outside England and Wales or which represents a country or territory,

- Association football matches in competition for the Football Association Cup (other than in a preliminary or qualifying round),

at any sports ground in England or Wales or any place used (wholly or partly) for sporting events where accommodation is provided for spectators.

The designated event, for the purposes of the legislation, lasts from two hours before the time at which it is advertised to start, finishing one hour after its end. Even if the event is postponed, the period during which it was due to take place remains designated. Events in Scotland are covered under Part V of the Criminal Justice (Scotland) Act 1980. Events that are due to take place outside Great Britain are still covered under Sporting Events (Control of Alcohol etc.) Act 1985, regarding travel to and from them. Sporting events at which the competitors are not rewarded **and** for which there is no charge for admittance are not covered under this Act.

Offences

1. It is an offence for the operator of a public service vehicle, or someone acting on his or her behalf, to provide alcohol or allow it to be carried on the vehicle if it is going to or coming from a designated sporting event. The Public Passenger Vehicles Act 1981 defines:

- A “public service vehicle” as a motor vehicle (other than a tramcar) which is capable of carrying more than eight passengers, and is carrying passengers for hire or reward.
- An operator as the driver of a vehicle, if he or she owns it, or the person for whom the driver works.

2. It is an offence for the hirer of a vehicle, or someone acting on his or her behalf, to provide alcohol, cause it to be provided, or allow it to be carried on a vehicle if it is going to or coming from a designated sporting event. The Public Passenger Vehicles Act 1981 defines such a vehicle as:

- A vehicle, not capable of carrying more than eight passengers, that is carrying passengers for hire or reward at separate fares. (i.e. where a vehicle is hired and the passengers agree to share the cost of the travel)

3. It is an offence, in respect of the vehicle described below, for:
 - The driver, the keeper, the hirer or person to whom the vehicle is made available to provide alcohol or allow it to be carried on a motor vehicle which is not a public service vehicle but is adapted to carry more than eight passengers, and which is being used for the principal purpose of carrying two or more passengers for the whole or part of a journey to or from a designated sporting event.
4. It is an offence to provide alcohol, cause it to be provided or allow it to be carried on a railway passenger vehicle if it is going to or coming from a designated sporting event.
5. It is an offence to be **in possession** of alcohol while on any of 1-4 above.
6. It is an offence to be drunk on any of 1-4 above.

Additionally, under section 156 of the **Licensing Act 2003**, there is a prohibition on the sale of alcohol on, or from, moving vehicles and, under section 157, a court may prohibit the sale of alcohol on a railway vehicle following an application from a senior police officer.

1. It is an offence to possess alcohol while in an area of a designated sports ground from which the event taking place can be viewed, i.e. it is permissible to drink in the bar but not from the seats on the terraces.
2. It is an offence to be drunk in a designated sports ground or to enter or try to enter while drunk.
3. It is an offence to possess a portable container of any kind, at a designated sports ground, e.g. a bottle, which is capable of causing injury to another. It is the **possession** of the container that causes the offence. If injury is caused by a thrown bottle or can of drink the offence committed will differ to that of simple possession such as one of assault. The Act does not state that the container must have been used to carry alcohol. There is an exception for medical containers.

Police Powers

At designated sporting events at designated sports grounds, within the period shown above, **if there are reasonable grounds to suspect that an offence is being or has been committed**, the following powers exist:

- There is the right of entry to designated events or designated sports grounds to enforce the Act.
- There is a right of search of person.
- There is a right to search any vehicle to which the Act applies, (Public Service vehicles, hired vehicles, railway passenger vehicles etc.) if alcohol is being provided, consumed or possessed, or if anyone is drunk, on a vehicle **travelling to or from a designated sporting event at a designated sports ground**. (The Act does not state that passengers who are not attending the sporting event are exempt from the provisions within it).
- There is a power of arrest under Police and Criminal Evidence Act 1984.

Police forces can, and do, liaise with vehicle and rail operators in order to prevent disturbances at or near sporting events. There may be agreed restrictions placed upon parking areas, stops at motorway service areas, routes to and from the ground or stops at railway stations. Police officers who may be engaged in the process of controlling sporting events should familiarise themselves with these voluntary restrictions prior to the event taking place.

Dishonestly obtaining electronic communications services (LPGO_1_16) v1.00

The legislation covering this subject is the Communications Act 2003.

Section 125 relates to “dishonestly obtaining electronic communications services”. Section 126 relates to “possession or supply of apparatus etc. for contravening section 125”.

An example of an offence covered by these sections is when someone supplies a satellite signal decoder to another party who intends to use it to receive satellite broadcasts without paying the proper fee to the relevant company. The supplier of the decoder will, if he or she is aware this, be guilty of an offence under

section 126. The person who uses the decoder with intent to receive the service dishonestly is guilty under section 125.

If an offence is detected under either of the two sections outlined above, there is a power of arrest under the Police and Criminal Evidence Act 1984. However it is suggested that, unless there is a compelling reason to the contrary e.g. evidence likely to be destroyed, this may not be the action to take. It may be better to contact the appropriate point within your force and seek advice and assistance.

Nuisance on Educational and NHS Premises (LPG0_1_17)

v1.00

Section 547 of the Education Act 1996 was introduced to assist schools and the police in combating unwelcome and troublesome people in schools or on school grounds.

The offence of nuisance or disturbance under Section 547 of the Education Act 1996

Any person who is present without lawful authority on the premises (including playgrounds, playing fields and other premises for outdoor recreation) of:

- any school maintained by a local education authority (ie maintained nursery schools, community, community special, foundation, foundation special voluntary schools and pupil referral units)
- any special school not maintained by a local education authority
- any independent school (this includes City Academies, and City Technology Colleges)
- any facility provided by a local education authority under section 507A and 507B of the Education Act 1996 and which is used wholly or mainly in connection with the provision of instruction or leadership in sporting, recreational or outdoor activities (eg outdoor education centres)

and causes or permits a nuisance or disturbance to the annoyance of the persons who lawfully use those premises (whether or not any such persons are present at the time) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Powers to remove persons under Section 547

A police constable or a person who has been authorised by the 'appropriate authority' may remove a person they have reasonable cause to suspect is committing or has committed the offence.

Powers to bring proceedings under Section 547

In addition Section 547 provides the police or a person who has been authorised by the 'appropriate authority' with the power to be able to bring proceedings.

Note: In all situations the police are authorised to remove someone from school premises and to bring proceedings for an offence under Section 547.

The offence of causing nuisance to NHS staff on NHS premises

Section 119 of the Criminal Justice and Immigration Act 2008 creates an offence of causing nuisance or disturbance to NHS staff on NHS premises. This offence has been created to deal with the increase in reported offences of both physical and verbal abuse on NHS staff whilst simply attempting to carry out their work.

In order to commit the offence, a person must, without reasonable excuse, cause a nuisance or disturbance to an NHS staff member whilst on NHS premises. A nuisance or disturbance can include any form of non-physical behaviour which breaches the peace, such as verbal aggression or intimidating gestures towards NHS staff.

This legislation provides both you and an NHS employee the facility to ask the person to leave the premises and if they refuse or fail to do so without reasonable excuse they commit an offence.

(Note that as at 16/04/10, this section is currently only in force in England)

Vehicle Interference (LPG0_1_18) v1.02

Interfering with vehicles – Section 9 Criminal Attempts Act 1981

Power of arrest without warrant – constables only

“a person is guilty of the offence of vehicle interference if he interferes with a motor vehicle or trailer or with anything carried in or on a motor vehicle or trailer with the intention that one of the offences below shall be committed by himself or some other person.”

The offences are:

- theft of the motor vehicle or trailer or part of it
- theft of anything carried in or on the motor vehicle or trailer
- taking the vehicle without the owner’s consent

In order to prove the offence, it is necessary to prove that there was **intent** to commit one of the acts (a-c) outlined in sub section 2 of the Act (see “Legislation” above). It is the intent that makes the offence. However, it is not necessary to show, or prove, **which one** of the three acts a suspect intended to commit.

We cannot prove intent by showing evidence of a single physical act, such as trying one car door. We need to show other supporting circumstances. If you were gathering information, you should include:

- time, day and place
- suspicious behaviour on the part of the suspect
- any pattern of behaviour: was more than one vehicle approached? In what manner?

If a pattern of behaviour was observed, this could provide a formed intent to commit one or other of the three offences.

This Act is relevant, as its title indicates, to **interference** with a vehicle. Its intention is to prevent a theft occurring. If someone actually steals a vehicle, or from it, or takes it without consent, it may be more appropriate to allege an offence under another act, e.g. the Theft Act.

Wildlife and Countryside (LPG0_1_20) v1.00

This session looks at the subjects of Animal Welfare and Dogs. The sections listed provide sufficient information to allow understanding of offences and powers available. For full details of the Act see:

<http://www.legislation.gov.uk/ukpga/2006/45/contents>

Animal Welfare Act 2006

The main aims of the Act are listed below

- reduce animal suffering by enabling preventive action to be taken before suffering occurs
- impose the duty on those responsible for domestic and companion animals to do all that is reasonable to ensure the welfare of their animals
- extend the existing power to make secondary legislation to promote the welfare of farmed animals to non-farmed animals, bringing legislation for non-farmed animals in line with that for farmed animals
- deter persistent offenders by strengthening penalties
- simplify the legislation for enforcers and animal keepers by consolidating over 20 pieces of legislation into one
- extend to companion animals welfare codes agreed by Parliament (a mechanism currently used to provide guidance on welfare standards for farmed animals)
- strengthen and amend current offences related to animal fighting
- increase the effectiveness of law enforcement for animal welfare offences
- increase from 12 to 16 the minimum age at which a child may buy an animal, and prohibit the giving of pets as prizes to unaccompanied children under the age of 16
- ban mutilations of animals (with certain specified exemptions)

The general headings this legislation covers are:

Definition of Animal (section 1)

Protected Animal (section 2)

Responsible Person (section 3)

Duties of a Responsible Person (section 9)

Unnecessary Suffering (section 4)

Mutilation (section 5)

Docking of Dog's Tails (section 6)

Animals in Distress (section 18)

Fish (section 59)

Wild Mammals (Protection) Act 1996 - Inflicting Unnecessary Suffering

This section deals with those animals that are living wild. There had previously been a loophole in the legislation that an animal had to have been 'reduced into captivity' before the offence could have been committed, here, the animal can be 'wild' and the offence is complete.

Section 1 of the Wild Mammals (Protection) Act 1996 states:

If, save as permitted by this Act, any person mutilates, kicks, beats, nails or otherwise impales, stabs, burns, stones, crushes, drowns, drags, or asphyxiates any wild mammal with intent to inflict unnecessary suffering he shall be guilty of an offence.

Note: there must be an **intention** to cause the suffering.

Wildlife and Countryside Act 1981

Wild Birds

Section 1 of the Wildlife and Countryside Act 1981 concerns the protection of wild birds, their nests and eggs. Subsection (1) creates the offences of intentionally killing, injuring or taking any wild bird; taking, damaging or destroying the nest of any such bird while in use or being built, taking, damaging or destroying the nest of any bird which reuses its nest, or taking or destroying an egg of such a wild bird.

Protected Animals

Section 9 of the Wildlife and Countryside Act 1981 creates the offences of intentionally killing, injuring or taking specific wild animals listed in schedule 5 of the Act, and also of possessing or controlling such animals whether dead or alive.

Wild Plants

Section 13 of the Wildlife and Countryside Act 1981 creates the offences of any person intentionally picking, uprooting or destroying any wild plant listed in Schedule 8 to the Act; or intentionally uprooting any other wild plant not being an authorised person. It is also an offence to sell, offer to sell, expose for sale, possess or transport any live or dead protected wild plant, or any part of or anything derived from such a plant for sale; or publish or cause to be published any advert likely to be understood as conveying that he buys or sells, or intends to buy or sell, any such plant.

Night poaching

Section 1 of the Night Poaching Act 1828 creates an offence in relation to the taking or killing of game or rabbits at night.

If any person shall by night, unlawfully take or destroy any game or rabbits in any land, whether open or enclosed, or shall by night unlawfully enter or be in any land, whether open or enclosed, with any gun, net, engine, or other instrument, for the purpose of taking or destroying game.

Protecting badgers

The Protection of Badgers Act 1992 consolidates all the legislation that was developed over the years to protect badgers. Section 1 makes it an offence to wilfully take, injure or kill a badger or attempt to kill, injure or take a badger without a licence.

Section 1(1) and Section 1(2) of the Act state:

(1) A person is guilty of an offence if, except as permitted by or under this Act, he wilfully kills, injures or takes, or attempts to kill, injure or take, a badger.

(2) If, in any proceedings for an offence under section 1(1) above consisting of attempting to kill, injure or take a badger, there is evidence from which it could reasonably be concluded that at the material time the accused was attempting to kill, injure or take a badger, he shall be presumed to have been attempting to kill, injure or take a badger unless the contrary is shown.

Fraud Act 2006 (LPGO_1_21) v1.03

Fraud by failing to disclose information - Section 3 Fraud Act 2006

A person commits an offence if he:

- dishonestly fails to disclose to another person information which he is under a legal duty to disclose, and
- intends, by failing to disclose the information to make a gain for himself or another, or to cause a loss to another or to expose another to a risk of loss.

Power of arrest without warrant – constables / other persons

Legal duty

A legal duty to disclose information may come from statute or under a contract; for example, failing to disclose an illness in order to obtain an insurance policy, or failing to disclose recent driving convictions to obtain cheaper car insurance.

Gain or loss

'Gain' includes keeping what one has, as well as a gain by getting what one does not have. 'Loss' means not getting what one might get, as well as losing something that one has. Neither need to actually take place; it is the 'intention' for it to happen that is important. The gain or loss can be temporary or permanent and extends to money or other property, whether real or personal, including things in action and other intangible property.

Fraud by abuse of position – Section 4 Fraud Act 2006

A person commits an offence if he:

- occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person,
- dishonestly abuses that position, and
- intends by means of the abuse of that position to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss.

A person may be regarded as having abused his position, even though his conduct consisted of an omission rather than an act.

Power of arrest without warrant – constables / other persons

Occupies a position

This offence focuses on those persons who are in privileged positions of financial trust and have insight and possibly control of another's financial situation. The relationship could be between:

• trustee and beneficiary	• director and company
• professional person and client	• agent and principal
• employee and employer	• partners
• individuals within a family	• friends

Abuse

This is not defined and does not restrict the personal gain to a monetary one, although invariably it will be. A person may be regarded as having abused his or her position even though his conduct consisted of an omission rather than an act. The more common examples that you may encounter are:

- where a member of the family is in charge of the finances of a relative due to ill health or other circumstances, but fails to act in that persons financial best interests or uses the money for their personal matters
- an employee allowing discount or free goods/services to friends and family when they are not authorised to do so

Powers to Search (CJ and PO Act 1994) (LPGO_2_01) v1.02

Power to Search-Section 60 Criminal Justice and Public Order Act 1994

(1) If a police officer of or above the rank of inspector reasonably believes:

- a) that incidents involving serious violence may take place in any locality in his police area, and that it is expedient to give an authorisation under this section to prevent their occurrence, or

(aa) that—

- (i) an incident involving serious violence has taken place in England and Wales in his police area;
- (ii) a dangerous instrument or offensive weapon used in the incident is being carried in any locality in his police area by a person; and
- (iii) it is expedient to give an authorisation under this section to find the instrument or weapon; or that persons are carrying dangerous instruments or offensive weapons in any locality in his police area without good reason, he may give an authorisation that the powers conferred by this section shall be exercisable at any place within that locality for a specific period not exceeding 24 hours.

(3) If it appears to an officer of or above the rank of superintendent that it is expedient to do so, having regard to offences which have, or are reasonably suspected to have, been committed in connection with any activity falling within the authorisation, he may direct that the authorisation shall continue in being for a further 24 hours

(3A) If an inspector gives an authorisation under subsection (1) he must, as soon as it is practicable to do so, cause an officer of or above the rank of superintendent to be informed

(4) This section confers on any constable in uniform power:

- a) to stop any pedestrian and search him or anything carried by him for offensive weapons or dangerous instruments;
- b) to stop any vehicle and search the vehicle, its driver and any passenger for offensive weapons or dangerous instruments

This is a distinctly separate and additional power to the general stop and search powers. The intention is to prevent serious violence and the widespread carrying of weapons that might lead to serious injury, by empowering the police to disarm potential offenders in circumstances where other powers would not be sufficient. It therefore follows that if other powers are available they should be used in preference to Section 60.

60(1)(a) is generally a preventative measure where there is apprehension that serious violence will ensue.

60(1)(b) is applicable where the officer in question has 'reasonable belief' that people are carrying dangerous instruments or offensive weapons.

Serious Violence: The general thrust of this legislation appears to be directed against violence to people as opposed to property.

Offensive Weapons and Dangerous Instruments

Offensive weapon has the same definition as defined in Section 1 PACE, whereas dangerous instruments are bladed or sharply pointed instruments.

Carries

A person carries a dangerous instrument or an offensive weapon if he has it in his possession.

Reasonably Believes

This is more than suspicion and must be based on objective facts such as a history of antagonism between the parties involved, previous violence at similar events, or crime statistics pointing to an increase in knife point robberies in a particular area.

Period of Authorisation

The legislation quotes 24 hours but in actuality this is the maximum period – the order should last only as long as necessary, up to the maximum of 24 hours. If an officer of or above the rank of superintendent considers that having regard to offences that have been, or are reasonably suspected to have been committed in connection with any activity falling within the authorisation, and it is expedient to do so, they may authorise the continuation of the authorisation for a further period up to 24 hours.

Extent of Power

With the authority in place, it allows the stopping and searching of pedestrians, vehicles (which includes caravans, aircraft, vessels and hovercraft) its driver and any passengers, regardless of any grounds to suspect the carrying of offensive weapons or dangerous instruments. It does not, however, affect the Section 1

PACE powers of stop and search, which carry on as normal. Any items which may be construed to be a dangerous instrument or offensive weapon may be seized. The powers under section 60 are conferred on police officers only. It is important to remember that PCSOs **do not** have these powers.

Power to require removal of disguises-Section 60AA Criminal Justice and Public Order Act 1994

1) Where:

- a) an authorisation under section 60 is for the time being in force in relation to any locality for any period, or
- b) an authorisation under subsection (3) that the powers conferred by subsection (2) shall be exercisable at any place in a locality is in force for any period,

those powers shall be exercisable at any place in that locality at any time in that period.

2) This subsection confers power on any constable in uniform:

- a) to require any person to remove any item which the constable reasonably believes that person is wearing wholly or mainly for the purpose of concealing his identity;
- b) to seize any item which the constable reasonably believes any person intends to wear wholly or mainly for that purpose.

3) If a police officer of or above the rank of inspector reasonably believes:

- a) that activities may take place in any locality in his police area that are likely (if they take place) to involve the commission of offences, and
- b) that it is expedient, in order to prevent or control the activities, to give an authorisation under this subsection,

he may give an authorisation that the powers conferred by this section shall be exercisable at any place within that locality for a specified period not exceeding twenty four hours.

Related offences:

- Fail to Stop – Individual
- Fail to Stop – Vehicle

Power of arrest without warrant - constable only

- Carrying Dangerous Instruments or Offensive Weapons
- Failure to Comply with a Search

Although there is nothing in section 60 which confers any power to search by force if necessary, the legislation would be of little benefit if there was no power, so you should consider the offence of **Obstructing a police officer – Section 89(2) Police Act 1996** (LPG1.1.01 QN), or, if their actions create sufficient suspicion, you may be able to revert to section 1 PACE powers.

- Failing to Comply with Requirement to Remove Items - Section 60AA (7) Criminal Justice and Public Order Act 1994

Power of arrest without warrant - constable only**Armed Forces – Absentees and Deserters (LPG0_3_01) v1.00**

The Armed Forces Act 2006 harmonises the arrangement for discipline across all 3 services, the Army, the RAF and the Royal Navy so that all personnel are subject to the same system wherever they are serving.

Desertion, Section 8 Armed Forces Act 2006

A person subject to service law commits the offence of desertion if they are absent without permission and either intend not to return at all or to avoid a period of active service.

Absence without leave, Section 9 Armed Forces Act 2006

Makes it an offence for a person subject to service law to be absent from duty without permission.

Civilian Police Actions or Involvement

Part 13, Chapter 3 Arrest & Detention by Civilian Authorities

- Section 313 - Arrest by civilian police under warrant of judge.
Permits judge advocates to issue warrants to civilian police forces of the UK to arrest persons reasonably suspected of having committed service offences.
- Section 314 – Arrest by civilian police of Deserters & Absentees.
Permits civilian police in the UK to arrest a suspected absentee without a warrant. It also provides authority for warrants to be issued by ‘authorised persons’ in the civilian system.
- Section 315 – Deserters and Absentees without leave surrendering.
Provides that a person who surrenders himself as being a deserter or absent without leave to a police officer must be taken to a police station.
- Section 318 – Arrest by civilian police of persons unlawfully at large.
A person who has been sentenced to service detention and is ‘unlawfully at large’ may be arrested by a police officer without a warrant and may be taken to the place he is required to be detained.

Armed Forces (Evidence of Illegal Absence and Transfer to Service Custody) Regulations 2009

Certificates are issued by the Service Police Crime Bureau (SPCB) or the Navy Missing Persons Unit (RNMPU) to the civilian police as evidence of unauthorised absence.

They are also required if a person is transferred into service conditions or released subject to conditions.

Regulation 6 of the Armed Forces (Evidence of Illegal Absence and Transfer to Service Custody) Regulations 2009 defines the required information in a certificate of transfer to service custody.

For the purposes of this part, the **required information** means -

- a) the name and position of the authorised person;
- b) the name and, if known, the unit, service, rank or rate, and service number of the relevant person;
- c) details of whether the relevant person was arrested, surrendered or

- appeared before a court of summary jurisdiction;
- d) if the relevant person was arrested –
 - (i) the name, rank and number of the person making the arrest;
 - (ii) the date, time and place of arrest; and
 - (iii) if the arrest was in execution of a warrant, the number and date of the warrant;
 - e) if the relevant person surrendered himself -
 - (i) the name, rank and number of the person to whom the relevant person surrendered;
 - (ii) the date, time and place of surrender;
 - f) details of whether or not at the time of the arrest or surrender of the relevant person, he was wearing the uniform of any of Her Majesty's forces; and
 - g) details of whether or not at the time of the arrest or surrender of the relevant person, he was in possession of an identity card issued by any of Her Majesty's forces.

Smoking (LPGO_3_11) v1.00

Section 7 of the Children and Young Persons Act 1933 prevents the sale of various tobacco products and/or cigarette papers to persons under eighteen years old.

Offence

Section 7(1) Any person who sells to a person under the age of eighteen years any tobacco or cigarette papers, whether for his own use or not, commits an offence.

Defence

Section 7(1A) It shall be a defence for a person charged with an offence to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Powers under Section 7 Children and Young Persons Act 1933

Police Officers, Park Keepers and PCSOs* have the power under Section 7 of the Children and Young Persons Act 1933 to seize tobacco or papers from anyone who is apparently under the age of 16 whom they FIND SMOKING in a public place.

*PCSO power comes from paragraph 7 of Schedule 4 to the Police Reform Act 2002. All PCSOs have this standard power.

Truancy (LPG0_3_12) v1.00

Children who do not attend school are far more likely to commit criminal offences, according to a national survey conducted by the Youth Justice Board.

Police Powers Under Section 16 of the Crime and Disorder Act 1998

Police officers and PCSOs have the power under Section 16 of the Crime and Disorder Act 1998 to remove truants to a designated premises.

Section 444A of the Education Act 1996

A police officer or designated PCSO has the power to issue a parent of a child of compulsory age (5-16) who is registered and fails to attend school on a regular basis with a fixed penalty notice for failure to secure regular attendance at school of a registered pupil, under Section 444A of the Education Act 1996.

Points to consider to prove this offence:

- the offence took place in England
- the child was of compulsory school age, 5-16
- the child was a registered pupil at school
- the child failed to attend on a regular basis
- the child was a boarder at a school and was absent in any part of the school terms except when sick or because of an unavoidable cause

Circumstances when a child will not be considered to have failed to attend school on a regular basis are:

- leave
- sickness

- unavoidable cause
- day set apart for religious observance

Police officers and designated PCSOs also have the power to give a penalty notice under section 105 of the Education and Inspections Act 2006 in respect of presence of an excluded pupil in public place.

Fireworks (LPGO_3_13) v1.00

Fireworks are explosives and burn at high temperatures, so they need careful handling and storage. This is why there are laws in place to govern the use and possession of fireworks, and how they are stored and sold.

Section 11 Fireworks Act 2003 creates offences relating to the breach of the Fireworks Regulations. These offences are listed below:

- **Breach of fireworks curfew**
It is an offence to use fireworks between the hours of 11pm or 7am, there are calendar exceptions.
- **Possession of a category 4 firework**
No person of any age should be in possession of a category 4 firework.
- **Possession by a person under 18 of an adult firework**
It is an offence for persons under the age of 18 to have or use adult fireworks in a public place.
- **Supply of excessively loud fireworks**
It is an offence to supply excessively loud category 3 fireworks.

Section 80 of the Explosives Act 1875 creates the offence of:

- **Throwing fireworks or setting of fireworks in public places**
Section 80 of the Explosives Act 1875 prohibits throwing or setting off fireworks on any highway, street, thoroughfare or public place.

Fixed penalty procedure

All of the above firework offences can be dealt with via PND (Penalty Notice for Disorder).

Other Person Powers (LPG0_3_14) v1.00

This section looks at the powers for educational staff to search pupils in order to combat incidents involving knives and items made, adapted or intended for causing injury.

Section 550AA of the Education Act 1996 (not yet in force in Wales) states:

'A member of the staff of a school who has reasonable grounds for suspecting that a pupil at the school may have with him or in his possessions:

- an article to which Section 139 of the Criminal Justice Act 1988 knives and blades etc. applies, or
- an offensive weapon, (within the meaning of the Prevention of Crime Act 1953),

may search that pupil or his possessions for such articles and weapons.'

Section 550AA of the Education Act 1996 – The search

The power to search is exercisable whenever the member of staff is in lawful control of the pupil; including when the pupil is not on school premises, for example, on a school trip. Only the head teacher of a school, or a person authorised by the head teacher can conduct the search.

Extent of the search

The search can be conducted without the pupil's consent using reasonable force if necessary. The person searching must be of the same sex as the pupil and may only carry out the search in the presence of another member of staff, also of the same sex. They may not require the pupil to remove any clothing other than outer clothing. Outer clothing means:

- any item of clothing that is being worn otherwise than wholly next to the skin or immediately over a garment being worn as underwear, or
- a hat, shoes, boots, gloves or a scarf.

The pupils' possessions, which means any goods over which the pupil has or appears to have control, cannot be searched except in the presence of the pupil and another member of staff.

Seizure of items

The searching member of staff can seize and retain any articles found within the search that they have reasonable grounds for suspecting is an article under Section 139 Criminal Justice Act 1988, or an offensive weapon, or any other thing which he/she has reasonable grounds for suspecting is evidence in relation to an offence. Any article seized must be delivered to a constable as soon as is reasonably practicable.

Section 85B Further and Higher Education Act 1992 - Power to search Further Education students for weapons (not yet in force in Wales)

This power is essentially the same, the only difference here is the terminology used is 'principal' instead of 'head teacher'.

Section 47 of the Violent Crime Reduction Act 2006 - Power to search persons in attendance centres for weapons

Section 47 of the Act provides a similar power again, but this Section is specifically in relation to searching persons in attendance centres.

The Education and Inspections Act 2006 - Section 93 Power of members of staff to use force

Members of staff can use such force as is reasonable in the circumstances for the purpose of preventing a pupil from doing, or continuing to do, any of the following:

- committing any offence
- causing personal injury to, or damage to the property of, any person (including the pupil themselves), or
- prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise.

The power may be exercised only where:

- the member of the staff and the pupil are on the premises of the school in question, or
- they are elsewhere and the member of the staff has lawful control or charge of the pupil concerned.

Diplomatic Privilege (LPGO_4_02) v1.02

These notes are intended to enable you to:

- Identify a Diplomat
- Ascertain whether he or she has Diplomatic Immunity within the UK
- Follow the proper procedure when dealing with a Diplomat

A Diplomat is a person selected to represent his or her nation in another country and carry out a variety of duties.

Some of the duties of a Diplomat are of a sensitive or confidential nature so they are granted immunity from criminal prosecution.

A Diplomat may have complete immunity at all times from prosecution, or partial immunity, that is immunity only when carrying out official duties. It is important to remember that a Diplomat's immunity extends to:

- Their spouse or other family members
- Their homes
- Their vehicles, if carrying a Diplomatic Vehicle registration mark

All Diplomats possess a Diplomatic Identity Card or a Diplomatic Passport

The Diplomatic Protection Group (DPG) of the Metropolitan Police holds the Privileged Persons Index, a list of those who are entitled to diplomatic immunity. The DPG numbers are:

0208 721 7979

If confronted by a person who claims immunity from arrest or detention:

- Request the production of a Diplomatic Identity Card or Diplomatic Passport.
- Check with the Privileged Persons Index to confirm identity and status.
- Ensure that the claim to immunity is genuine before allowing the person to leave
- Record the incident and report it to force and DPG

Arrest should **only** be considered when:

- The person presents an immediate danger to him/her self or others
- There is reasonable doubt about the person's identity
- Identity is confirmed but entitlement to immunity is in doubt

Do not charge a Diplomat. Diplomats are immune from prosecution.

If a person suspected of driving while unfit to do so, ("Drink Driving"), claims immunity:

- Invite him or her to produce a sample of breath for a roadside test
- If the test is positive, or the invitation is declined, treat as a normal member of the public until immunity is verified

A person claiming immunity, who is suspected of driving while unfit to do so, **must not** be permitted to continue driving. Ask him or her to arrange for alternative transport.

All incidents involving Diplomats **must** be reported to DPG at the Metropolitan Police.

Stolen Vehicles Found Abandoned (LPGO_4_05) v1.00

These notes are concerned with the action to take in respect of vehicles that are, or appear to be, abandoned.

Factors that may assist you in establishing that a vehicle is, or may be, abandoned, may be:

- Its distance from the home address of the registered keeper
- Whether the windscreen is dusty or dirty over the area normally swept by the wipers
- If it is neatly parked or appears to have just been abandoned
- If the doors are unlocked and if there is any apparent damage to either the door locks or the steering lock and ignition

Remember that the vehicle may have been abandoned because it was used during a crime, is unfit for use and dumped, was mislaid or it contains a terrorist device.

Do not touch the vehicle in order to prevent evidential contamination and stop possible injury. Do not use Airwave terminals, radios or cellular phones within 15 metres of the vehicle, or vehicle radios and R/T sets within 50 metres. This is to prevent triggering explosives.

Action

- Speak to local residents/workers to establish when the vehicle was abandoned and whether anyone is using it as a store
- Check with the PNC to establish whether anything is known in respect of the vehicles
- Remember that the vehicle is a potential exhibit
- Keep a record of your actions
- Report to your force and obtain instructions as to how to proceed

Street Bail (LPG0_4_06) v1.02

This procedure does not replace any of your existing powers. What it does do, is offer you a useful alternative power to consider after having made an arrest.

Note: There would seem to be little sense in giving someone street bail if you suspect that the arrested person has provided you with an incorrect name or given you an unsatisfactory address. Similarly, it would be inappropriate to street bail an individual if they were likely to cause injury to themselves or others or commit damage to property. Therefore, it would not be appropriate to grant street bail whilst any of the conditions apply of Section 24(5) PACE 1984 for arrest without warrant – constables, apply.

Key aims

- enable officers to remain on patrol for longer periods and thus raise visibility
- give officers greater flexibility to decide how best to use their time and organise their casework
- remove the need for suspects to be taken to a police station only to be bailed on arrival
- maintain safeguards and protections for those granted street bail

Release on bail

Section 30A(1) PACE 1984 states: A constable may release on bail a person who is arrested or taken into custody in the circumstances mentioned in Section 30(1).

Section 30A (2) PACE 1984 states: A person may be released on bail under subsection (1), at any time before they arrive at a police station.

Section 30A (3) PACE 1984 states: A person released on bail under subsection (1), must be required to attend a police station.

Section 30A (3A) PACE 1984 states: Where a constable releases a person on bail under subsection (1) no recognisance, security or sureties or the requirement to reside at a bail hostel shall be taken or required to ensure that persons surrender to custody.

Section 30A (3B) PACE 1984 states: Subject to subsection (3A), where a constable releases a person on bail under subsection (1), the constable may impose, as a condition of the bail, such requirements as appear to the constable to be necessary to:

- secure that the person surrenders to custody
- secure that the person does not commit an offence while on bail
- secure that the person does not interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person, or
- for the persons own protection or, if the person is under the age of 17, for their welfare or in the persons own interest

Section 30A (4) PACE 1984 states: Where a person is released on bail under subsection (1), a requirement may be imposed on the person as a condition of bail only under the preceding provisions of this section

Section 30A (5) PACE 1984 states: The police station which the person is required to attend may be any police station.

Benefits: For the police, suspect and community.

Key considerations: The granting of street bail will test your decision making ability and will enable you to exercise your discretion at the point of arrest.

There are six considerations:

- the nature of the offence
- the ability to progress the investigation at the station at the time
- confidence in the suspect answering bail and
- the level of awareness and understanding of the procedure by the suspect
- the welfare of the individual and ensuring access to their rights
- ensuring that protection issues are considered and applied for juveniles and other vulnerable people

Making a decision

The decision to grant street bail should follow the normal arrest procedure; in other words, you will arrest, caution and search (if appropriate) a suspect in the usual way. Then, bearing in mind the four key considerations above, your decision to bail should carry the same responsibility for issuing bail as custody officers have at police stations.

Statements concerning guilt are not relevant to the decision to grant street bail, as future interview procedures and examination of the evidence will take place in more detail when the person answers bail. In order to assist you with the decision making process, you must take into account the following:

- what type of offence has been committed?
- what impact has the offence had?
- would a delay in dealing with the offender result in loss of vital evidence?
- is the arrested person fit to be released back on to the streets?

- does the arrested person understand what is happening?
- if released on bail is the arrested person likely to commit a further offence?
- am I satisfied that the arrested person has provided a correct name and address?

Police powers and the administration process

A constable can grant street bail if a person has been arrested for an offence or taken into custody following arrest by someone other than a constable, for example, a designated officer or a store detective.

Your powers of entry and search after arrest under Section 18(5) PACE 1984 can still be used if necessary whilst using street bail to deal with an offender.

A constable can require the arrested person to attend a police station at a specified later date. Alternatively, the constable can inform the person that they will receive a notice informing them of a specified date to attend the police station. No other conditions can be imposed.

The person granted street bail or notice of intention to bail must be given a notice setting out the procedures and requirements for them. They should always be asked to sign, in order to acknowledge the requirements which have been imposed. A person's refusal to sign does not in itself prevent you from granting bail and does not prevent action being taken if the person does not answer their bail.

Juveniles and other vulnerable people

You should always assess the level of risk to the safety and welfare of a juvenile or vulnerable person before considering whether or not to street bail them.

If you are satisfied that street bail is appropriate you must first of all explain your decision to them and then issue them with a street bail notice. Once you have done this you must release them as soon as possible.

Powers of arrest: There is no specific offence of failing to comply with street bail. However:

Section 30D (1) PACE 1984 states: A constable may arrest without warrant a person who:

- has been released on bail under S 30A subject to a requirement to attend a specified police station, but
- fails to attend the police station at the specified time

Section 30D (2) PACE 1984 states: A person arrested under subsection (1) must be taken to a police station (the specified one or any other police station) as soon as practicable after arrest.

Section 30D (2A) PACE 1984 states: A person who has been released on bail under S 30(A) may be arrested without warrant by a constable if the constable has reasonable grounds for suspecting that the person has broken any of the conditions of bail.

Section 30D (2B) PACE 1984 states: A person arrested under subsection (2A) must be taken to a police “station” (which may be the specified police station mentioned in subsection (1) or any other police station) as soon as practicable after arrest.

Section 30D (3) PACE 1984 states: In subsection (1), “specified” means specified in a notice under subsection (1) or (5) of section 30B or, if notice of change has been given under subsection (7) of that section, in that notice.

Notes for Guidance for officers granting street bail

Example of Street Bail Forms

Immigration and Control (LPGO_4_09) v1.00

The nationals of certain foreign countries require authority to come to the UK. This authority is known as a visa. Visas are obtained from the British Embassy, or High Commission as the case may be, before the visitor travels, or, occasionally, it may be issued by the United Kingdom Border Agency (UKBA) at the port or airport of entry.

Visas are normally in the form of a stamp inside the visitor’s passport, which shows information such as the length of stay allowed to the visitor, whether

permission has been granted for him or her to work in the UK and any other conditions that may be appropriate.

A person commits an offence if

- He or she is within the UK illegally
- Has contravened a condition of entry

It is also an offence to aid someone to commit one of the above offences, e.g. to employ them when they are not entitled to work, or to assist them to come to the UK illegally.

If there are reasonable grounds for suspecting that a person has committed an offence, they may be arrested without warrant under the provisions of the Police and Criminal Evidence Act 1984.

A suggested course of action, if it is suspected that an offence has been committed, is:

- Ask for the production of the document that entitles the owner to reside in the UK
- Ensure that the visa has not expired
- Check the document for the conditions of residence
- Ensure that there is compliance with the conditions
- If you have reasonable grounds to do so, you may arrest the person(s) concerned
- Make a record of the occurrence

The United Kingdom Border Agency (UKBA), keep the details of all persons who have been given permission to stay in the UK on a central database. All UKBA offices have access to this, and you may contact the staff at any office for assistance.

Remember that even if someone is in the UK illegally, they still have their rights under the European Convention on Human Rights and the UK legislation in respect of equality.

Dealing with Bailiffs (LPGO_5_01) v1.00

The role of a Bailiff

A bailiff is a person legally authorised to collect a debt on behalf of a creditor and as such may be employed by any number of organisations. The usual authority of a bailiff is a warrant issued by the County Court to recover goods or money owed, or goods to the value of monies owed, where the creditor has applied to the County Court for such a warrant. Alternatively, the bailiff may be acting under the authority of a distress warrant or a liability order issued by a Magistrates' Court, usually for non payment of council tax, fines, compensation or maintenance.

The role of the police with regard to Bailiffs

Your role, as with any other civil dispute, is to prevent a Breach of the Peace and you should only act with regard to this or any other offences disclosed. You are not present to act as an arbitrator, nor should you be drawn into any discussion about the rights and wrongs of the issue.

On arrival at the scene or beforehand if you are meeting by prior arrangement, you need to establish what authority the bailiff has. If there is a court order and the property is handed over willingly or some other arrangement is negotiated, then that is all to the good, but it is an offence (usually a breach of the peace unless other elements are present) for any force to be used to obtain the property. If, however, there is a County Court warrant authorising the bailiff to seize the property, then the bailiff may use reasonable force in order to do so. Whilst you should not actively assist either party, if the bailiff were hindered in any way then that would constitute a breach of the peace.

Stated cases re breach of the peace

Bibby v Chief Constable of Essex (2000) determined some useful pointers with regard to Breach of the Peace. Refer to (LPG1_5_01).

Landlord and tenant disputes (LPG0_5_04) v1.00

Types of disputes

Landowner and tenant disputes usually fall into one of three categories:

1. Rent disputes
2. Evictions
3. Harassment

Your actions should be the same for each type of dispute:

- prevent a breach of the peace
- investigate and pacify
- advise and refer
- report in detail

Public Transport Disputes (LPG0_5_06) v1.03

Introduction

As part of your routine patrol you may well be dispatched to many different and varied incidents, some may result in crime enquiries which may in turn lead to process. There are some which, as you are aware, may turn out to be 'non crime' events, for example civil disputes that usually revolve around non payment of charges or fees.

You may have already covered the offences of making off without payment (bilking) **LPG1.1.05 Theft Act 1978** and Obtaining Services Dishonestly **LPG1.1.11 Fraud Act 2006**.

In this section we will look at the offences that occur on public transport, in particular buses and to a lesser extent, depending where you work, trams.

Public Passenger Vehicles Act 1981

This Act creates regulation to control the conduct of passengers on public service vehicles (PSVs).

Section 25 of the Act makes provision for the conduct of passengers on PSVs and gives the facility for:

- (a) authorising the removal from a public service vehicle or tramcar of a person infringing the regulations by the driver, inspector or conductor of the vehicle or on request of the driver, inspector or conductor by a police constable;
- (b) requiring a passenger in a public service vehicle or tramcar who is reasonably suspected by the driver, inspector or conductor thereof of contravening the regulations to give his name and address to the driver, inspector or conductor on demand;
- (c) requiring a passenger to declare, if so requested by the driver, inspector or conductor, the journey he intends to take or has taken in the vehicle, and to pay the fare for the whole of that journey and to accept any ticket provided therefore;
- (d) requiring, on demand being made for the purpose by the driver, inspector or conductor, production during the journey and surrender at the end of the journey by the holder thereof of any ticket issued to him;
- (e) requiring a passenger, if so requested by the driver, inspector or conductor, to leave the vehicle on the completion of the journey the fare for which he has paid;
- (f) requiring the surrender by the holder thereof on the expiry of the period for which it is issued of a ticket issued to him.

It is an offence if a person contravenes or fails to comply with any of the above provisions created by this section.

The Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) Regulations 1990

This legislation provide the law relating to the duties and behaviour of drivers, inspectors and conductors of public service vehicles and to the conduct of passengers on those vehicles.

Regulation 6 concerns the conduct of passengers on a public service vehicle. No passenger on a vehicle shall:

- (a) where the vehicle has a door which passengers are by a notice informed is for a particular purpose, use that door for any other purpose, unless directed or authorised by a driver, inspector or conductor;
- (b) put at risk, unreasonably impede or cause discomfort to any person travelling on, entering or leaving the vehicle, or a driver, inspector, conductor or employee of the operator doing his work on the vehicle;
- (c) throw or trail any article from the vehicle;
- (d) smoke or carry lighted tobacco or light a match or cigarette lighter in or on any part of the vehicle where passengers are by a notice informed that smoking is prohibited, unless the vehicle has been hired as a whole and both the operator and the hirer have given their permission to the contrary;
- (e) except with the permission of the operator, distribute any paper or other article for the purpose of giving or seeking information about or comment upon any matter;
- (f) except with the permission of the operator, sell or offer for sale any article;
- (g) speak to the driver whilst the vehicle is in motion except:
 - (i) in an emergency;
 - (ii) for safety reasons; or
 - (iii) to give directions about stopping the vehicle;
- (h) without reasonable cause distract the driver's attention, obstruct his vision or give any signal which might reasonably be interpreted by the driver as a signal;
 - (i) to stop the vehicle in an emergency; or
 - (ii) to start the vehicle;
- (i) travel on any part of the vehicle which is not provided for the carriage of passengers;
- (j) remain on the vehicle, when directed to leave by the driver, inspector or conductor on the following grounds:
 - (i) that his remaining would result in the number of passengers exceeding the maximum seating or standing capacity marked on the vehicle in accordance with the Public Service Vehicles (Carrying Capacity) Regulations 1984;

- (ii) that he has been causing a nuisance; or
- (iii) that his condition would be likely to cause offence to a reasonable passenger or that the condition of his clothing is such that his remaining would be reasonably expected to soil the fittings of the vehicle or the clothing of other passengers;
- (k) play or operate any musical instrument or sound reproducing equipment to the annoyance of any person on the vehicle or in a manner which is likely to cause annoyance to any person on the vehicle; or
- (l) intentionally interfere with any equipment with which the vehicle is fitted.

Both offences are triable summarily and therefore Arrestable – Constable only

Litter (LPGO_5_08) v1.02

Section 18 (1) of the Environmental Protection Act 1990 provides that:

“A person is guilty of an offence if he throws down, drops or otherwise deposits any litter in any place, to which this section applies, and leaves it.”

This section applies to any place in the area of a principle litter authority which is open to the air, regardless of ownership.

Triable summarily - Power of arrest without warrant – constables only

You must remember that in places which are not obviously open to the air, the offence of littering can only be committed where the public have direct access.

Litter includes:

- discarded ends of cigarettes, cigars and like products
- discarded chewing – gum and the discarded remains of other products designed for chewing

Section 33 of the Environmental Protection Act 1990

Section 33 of this Act concerns the prohibition of unauthorised or harmful depositing of waste, which is commonly known as fly tipping.

Triable either way - Power of arrest without warrant – constables and other persons

Memory process (LPG0_7_01) v1.00

Memory is organised to assist us to remember. One theory suggests that we organise knowledge in a similar way to a filing system. The way memory is organised can have a powerful influence on what is remembered.

We organise the way we store information. In a first attempt to remember an incident or specifics we are likely to recall broad outlines but little detail.

Because of the way we organise the information stored we may **add or miss** unexpected detail in a first attempt to remember what has happened.

Memory retrieval - one way you can help yourself and others to recall, is to recreate, as near as possible, the same conditions which existed when the information was stored (not physically but mentally, e.g. if you were cold at the time, imagine that you are cold now). Next, concentrate on getting a clear mental picture of what you were doing. Now, take your time and write down **everything** you experienced as you relive the event you are retrieving.

Influence on memory recall - possibly the most common reason for not being able to recall something is that we never 'encoded' it into our memory in the first place. This often happens because limitations on our attention span are such that we can only attend to some aspects of the events we experience.

It follows that some things to which we are exposed will simply not be selected for encoding into our memory and will, therefore, not be available to be recalled.

Stress and trauma can often cause the temporary blocking of our memory. As the stress level subsides the range of detail that the witness is able to recall might increase. It usually takes about 24 hours for this process to be completed unaided. So, as a general rule, whenever stressed witnesses have been interviewed they should be interviewed again after the 'stress block' has had time to subside.

Presumptions in law (LPG0_7_02) v1.02

Questions of fact are those which are determined by the court as a result of hearing admissible evidence. The decisions they make on questions of fact are the prerogative of the court and cannot be over-ruled.

Questions of law, such as interpretations of the law, may be made by the court but may be challenged by way of appeal to a higher court, the result of which is binding on the lower court.

Presumptions of innocence - more commonly known as innocent until proven guilty.

Irrebuttable presumptions of law - are sometimes known as conclusive presumptions. This means that where the courts accept certain facts, they must therefore accept the existence of other facts, and the other party to the proceedings cannot produce evidence questioning those facts.

Rebuttable presumptions of law - is a legal rule to be applied by the court in the absence of conflicting evidence. Where two inconsistent rebuttable presumptions arise they neutralise each other, and the issue must be decided upon the evidence actually adduced.

Presumptions of fact - are inferences logically drawn from one fact as to the existence of other facts. There is no obligation upon a tribunal of fact to draw such inferences, and presumptions of fact are rebuttable by evidence to the contrary.

Reporting Stolen Plant (LPG0_7_03) v1.00

When dealing with a theft of industrial plant from a site it is important to obtain as much detail as is available regarding the incident, and then to place the information on the Police National Computer as soon as possible.

- Establish details of the stolen equipment by inspecting the Plant Identification Document which will be held by the owner or user of the equipment
- Establish details of the theft (date, time, method etc.)

- Establish the security arrangements in place
- Speak to the person who last used the plant, or the person responsible for locking it, in order to establish how the equipment was secured
- Update the PNC and force as soon as possible with details of the stolen equipment

Types of evidence (LPG0_7_05) v1.00

Evidence may be described as the means by which facts in issue before a court or tribunal may be proved or disproved in accordance with the legal rules governing the subject.

Oral evidence

This is the type of evidence which most people think of when they envisage a courtroom and a case in progress. It involves the witness going into the witness box, taking an oath to tell the truth and relating his or her experience directly to the court. The witness may generally only give direct evidence, i.e. what they have heard, seen, tasted, felt or smelled.

Real evidence

The word 'real' does not, in this legal context, have its ordinary English meaning. It is often described as physical evidence and consists of tangible objects and things that the court or jury can see.

Documentary evidence

Documentary evidence may not always be found at a crime scene relating to crimes such as murder, assault or burglary. However, with crimes such as fraud and false accounting evidence can be found at or near the victim's or defendant's premises. Documentary evidence often consists of a record or account that will help prove or disprove some fact.

Secondary evidence

In the section on real evidence it was stated that the court will usually require the actual object to be produced, but there are exceptions.

Where an exception applies the court may accept 'secondary evidence'. This is evidence of an inferior kind, e.g. the copy of a document or a photograph of stolen property.

Best evidence

In *Omychund v Barker* [1745] 1 Atk 21, Lord Hardwicke stated that no evidence was admissible unless it was "the best that the nature of the case will admit."

The general rule is that secondary evidence such as a copy or facsimile will not be admissible if the original is available.

Business documents

Business documents that have been prepared for criminal proceedings, and other business documents.

Statements

The Criminal Justice Act 1967 provides for the admissibility of written statements in criminal proceedings.

Evidence of fact and opinion

Witnesses may testify to facts. They are permitted to describe to the court what they actually perceived, providing of course that the evidence is relevant to a fact in issue and is admissible. Witnesses may not generally give evidence of opinion. However, witnesses with recognised specialist knowledge of a subject may, with the court's permission, give an opinion within their area of expertise.

Hearsay

Hearsay is second hand information, it usually occurs when a witness testifies not about something they personally saw, heard or otherwise perceived, but about something someone else told them.

Public evidence

Such statements and entries in records are admissible, provided they have been made by authorised agents of the public in the course of their duties.

Confession by an accused

A confession of an accused includes a statement that is wholly or partly contrary to the interests of the person who made it.

Admissions by an agent

In the case of an officer or agent of a company, they are in effect the embodiment of the company. A confession made by him or her amounts to an informal admission and is admissible.

Common enterprises

Where two or more persons are charged with conspiracy or other joint criminal enterprise, the acts and statements of any one party to the common enterprise, may be admissible against the others.

Circumstantial evidence

Not about the actual facts to be proved but about other facts from which those facts may be presumed with more or less certainty.

Corroboration

Evidence in corroboration must be independent testimony which affects the accused by connecting or tending to connect him with the crime.

Manage neighbourhood meetings (LPG0_7_07) v1.00

Neighbourhood meetings are vital for identifying priorities first-hand from the residents, and adopting a collaborative problem-solving approach when targeting community priorities.

The key to well run and scheduled meetings is to clarify the purpose.

Your meetings should be:

- timely
- objectives agreed
- productive
- purposeful
- enjoyable
- no longer than necessary

Serious consideration should be given to the venue, taking into account the possible variety of delegates you may have. It will need to be accessible to all, for example:

- is there wheelchair access?
- is the venue within easy walking distance of the bulk of the delegates?

You will also need to consider the individual needs of the participants, you can do this by speaking to people before hand and asking if they have any special requirements for the day.

Conducting the meeting

The mnemonic VOTE will assist you in prioritising and allocating tasks:

V ote	on the priorities for immediate action
O wnership	allocate the priority to the police or other person/organisation
T ie up	summarize agreements reached
E scalate	the outcomes to your line manager and Key Individual Network

Keeping an accurate, legible and complete record of meetings is essential.

Dangerous Condition (LPGO_8_01) v1.00

Using a Motor Vehicle or Trailer in a Dangerous Condition

Under Section 40A Road Traffic Act 1988, a person is guilty of an offence if he uses, or causes or permits another to use, a motor vehicle or trailer on the road when:

the condition of the vehicle or trailer, or its accessories or equipment, or

- a) the purpose for which it is used, or
- b) the number of passengers carried by it, or the manner in which they are carried, or
- c) the weight, position or distribution of its load, or the manner in which it is secured

is such that the use of the motor vehicle or trailer involves danger of injury to any person.

Definitions

- **Condition:** This applies not only to the vehicle/trailer but also to its equipment and accessories.
- **Purpose for which used:** This covers any use of the vehicle which results in danger when it is used in a way and for a purpose for which it is not suited.
- **Passengers:** This deals with the number of passengers and the manner in which any passengers are carried.
- **Load:** This covers everything about the load - weight, position, distribution and method of securing it.
- **Danger of Injury:** Actual danger to a specific individual need not be proved.

Unnecessary, wilful obstruction and leaving a vehicle in a dangerous position (LPGO_8_03) v1.02

Regulation 103 of the Road Vehicles (Construction and Use) Regulations 1986 creates the offence of **unnecessary obstruction**.

No person in charge of a motor vehicle or trailer shall cause or permit the vehicle to stand on a road so as to cause any unnecessary obstruction of the road.

The summary offence of failing to comply with the Regulations is created by Section 42 Road Traffic Act 1988

Power of arrest without warrant constables only

Section 137 of the Highways Act 1980 provides an offence of **wilful obstruction of the highway**

An offence is committed if a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway.

This offence can be committed by any person using anything to cause an obstruction of the highway. The offence can also be committed by a director, manager, secretary or other similar officer of a body corporate.

Power of arrest without warrant – constable only

Section 22 of the Road traffic Act 1988 creates an offence of **leaving a vehicle in a dangerous position**

If a person in charge of a vehicle causes or permits the vehicle or a trailer drawn by it to remain at rest on a road in such a position or in such condition or in such circumstances as to involve a danger of injury to other persons using the road, he is guilty of an offence.

Power of arrest without warrant constables only

The Road Traffic Regulation Act 1984 provides traffic authorities with the authority to regulate traffic within their area

The Secretary of State may by regulation make provision for the removal of vehicles which have been permitted to remain at rest :

- on a road in contravention of any statutory prohibition or restriction;
- on a road in such a position, condition or circumstance as to cause obstruction or danger to other persons using the road;
- on a road or on any land in the open air in such position, condition or circumstance as to appear abandoned without lawful authority
- broken down on a road

Regulation 3 of the Removal and Disposal of Vehicles Regulations 1986

These regulations allow a constable to require the owner, driver or other person in control or charge of a vehicle which:

- (a) has broken down, or been permitted to remain at rest, on a road in such a position, condition or circumstances as to cause obstruction to other persons using the road, or as to be likely to cause danger to such other persons; or
- (b) has been permitted to remain at rest or has broken down and remained at rest on a road in contravention of a prohibition or restriction in or under any enactment mentioned in Sch. 1 to the Regulations,

to move or cause it to be moved.

Removal and Disposal of Vehicles Regulations 1986 Regulation 4

These regulations state that, where a vehicle:

- (a) to which regulation 3 of these Regulations applies, or
- (b) having broken down on a road or on any land in the open air, appears to a constable to have been abandoned without lawful authority, or
- (c) has been permitted to remain at rest on a road or on any land in the open air in such a position or in such condition or in such circumstances as to appear to a constable to have been abandoned without lawful authority,

then, subject to the provisions of sections 99 and 100 of the 1984 Act, a constable may remove or arrange for the removal of the vehicle, and, in the case of a vehicle which is on a road, he may remove it or arrange for its removal from that road to a place which is not on that or any other road, or may move it or arrange for its removal to another position on that or another road."

Dealing with Motor Vehicle Crime (LPG0_8_04) v1.00

Theft from motor vehicles

There are four potential ways you may come across thefts from vehicles

1. response to a call from the victim on finding the theft
2. response to a call from the public to a crime in progress
3. encountering the crime whilst on routine patrol
4. setting up observations to catch the thieves

Tools of the Trade

The following may assist you when searching individuals for items likely to be used in vehicle crime:

- bunch of keys
- slim jims
- percussion devices
- plastic binding tape or wire coat hangers
- skeleton type keys
- spark plug or fire hammer
- items to remove ice systems

Stopping a Suspect vehicle

Stopping vehicles, either on foot or when in another vehicle, can be an extremely dangerous exercise, and your force will have a policy with regard to this, which you will be taught locally.

Driver Obligations (Section 154 Road Traffic Act 1988) (LPGO_8_05) v1.03

Section 154 of the Road Traffic Act 1988 provides that where a person makes a claim against another person in respect of any liability as is required to be covered by a policy of insurance, that person must on demand:

- (a) state whether or not:
 - they were insured (or had in force a security) having effect for the purpose of the Act or
 - they would have been insured (or had in force such a security) if the insurer (or the giver of the security) had not avoided or cancelled the policy or security, and
- (b) if they were (or would have been) so insured, or had or would have had in force such a security, they must:
 - give relevant particulars with respect to that policy or security as specified in any certificate of insurance or security delivered in respect of that policy or security under Section 147
 - where no such certificate was delivered under S 147, give particulars of the registration mark, or other identifying particulars of the vehicle concerned, the number of the insurance policy, the name of the insurer and the period of the insurance cover

Offence

It is an offence if, without reasonable excuse, a person fails on demand to give certain information as to his insurance or security to a person making a particular claim against him or wilfully makes a false statement in reply to such demand. Note: "Wilfully" means that the act is done deliberately and intentionally, not by accident or inadvertence.

Construction and Use (LPG0_8_06) v1.00

Exhaust System

Offences contrary to Regulations 54 and 57 Road Vehicles (Construction and Use) Regulations 1986

Regulation 54: Requires the fitting of an exhaust system including a silencer to all vehicles fitted with an internal combustion engine.

Regulation 54(1): Every vehicle propelled by an internal combustion engine shall be fitted with an exhaust system including a silencer and the exhaust gases from the engine shall not escape into the atmosphere without first passing through the silencer.

Regulation 54(2): Every exhaust system and silencer shall be maintained in good and efficient working order and shall not after the date of manufacture be altered so as to increase the noise made by the escape of exhaust gases.

Regulation 57: Deals with the construction requirements relating to noise limits imposed on motor cycles.

Regulation 57(1): Subject to Regulation 59, this regulation applies to every motor vehicle first used on or after 1st April 1983 which is:

- a) a moped, or
- b) a two wheeled motor cycle, whether or not with sidecar attached, which is not a moped.

Regulation 57(2): A vehicle to which this regulation applies shall be so constructed that it meets:

- a) if it is first used before 1st April 1991, the requirements of item 1 or 2 in Part 1 of Schedule 7A;
- b) if it is first used on or after that date, the requirements of item 2 of that table.

Regulation 57(3): Instead of complying with paragraph 2, a vehicle first used before 1st April 1991 may comply at the time of its first use with Community

Directive 78/1015, 87/56 or 89/235.

Regulation 57(4): Instead of complying with paragraph 2, a vehicle first used on or after 1st April 1991 may comply at the time of its first use with Community Directive 87/56 or 89/235.

These regulations deal with the level of noise emitted. If you consider the amount of noise emitted by a vehicle to which this section applies to be excessive then you may require it to be tested to see if it complies usually by way of VDRS.

Regulation 59

Regulations 55, 55A, 56, 57, 57A and 57B do not apply to a motor vehicle which is –

- a) proceeding to a place where, by previous arrangement
 - i. noise emitted by it is about to be measured for the purpose of ascertaining whether or not the vehicle complies with such of those provisions as apply to it; or
 - ii. the vehicle is about to be mechanically adjusted, modified or equipped for the purpose of securing that it so complies or
- b) returning from such a place immediately after the noise has been so measured

Tyres

Requirements for tyres

Under Section 41A Road Traffic Act 1988, any person who:

- fails to comply with, or
- contravenes construction and use requirement as to tyres, or who
- uses, or causes or permits to be used on a road,
- a motor vehicle or trailer which does not comply with the requirements, commits an offence.

Basic Requirements (Regulation 27 of the Road Vehicles (Construction and Use) Regulations 1986.

All tyres fitted to vehicles used on a road must be so maintained that they are free from defect and fit for the use to which they are being put.

The offence is to use, cause or permit to be used, on a road, a motor vehicle (or trailer) fitted with a pneumatic tyre which:

- a) The tyre is unsuitable having regard to the use to which the motor vehicle or trailer is being put or to the types of tyres fitted to its other wheels;
- b) The tyre is not so inflated as to make it fit for the use to which the motor vehicle or trailer is being put
- c) The tyre has a cut in excess of 25mm or 10% of the section width of the tyre, whichever is the greater, measured in any direction on the outside of the tyre and deep enough to reach the ply or cord;
- d) The tyre has any lump, bulge or tear caused by separation or partial failure of its structure;
- e) The tyre has any of the ply or cord exposed
- f) The base of any groove which showed in the original tread pattern of the tyre is not clearly visible;
- g) either—
 - i. the grooves of the tread pattern of the tyre do not have a depth of at least 1 mm throughout a continuous band measuring at least three-quarters of the breadth of the tread and round the entire outer circumference of the tyre; or
 - ii. if the grooves of the original tread pattern of the tyre did not extend beyond three-quarters of the breadth of the tread, any groove which showed in the original tread pattern does not have a depth of at least 1 mm; or
- h) The tyre is not maintained in such condition as to be fit for the use to which the vehicle or trailer is being put or has a defect which might in any way cause damage to the surface of the road or damage to persons on or in the vehicle or to other persons using the road.

Exemptions include: Agricultural motor vehicles driven at not more than 20 mph, agricultural trailers, broken down vehicles or vehicles proceeding to a place to be

broken up, being drawn in either case, by a motor vehicle at not more than 20 mph.

General Offences

Most of the vehicles you will be dealing with will be vehicles first used on or after 3 January 1933 which are:

- passenger vehicles (other than motorcycles) constructed or adapted to carry no more than eight seated passengers in addition to the driver, or
- goods vehicles with a maximum gross weight not exceeding 3500 kg, or
- light trailers not being goods vehicles as above.

For these vehicles the requirement is for the grooves of a tread pattern to be at least 1.6 mm deep throughout the continuous band situated in the central three-quarters of the breadth of the tread, around the entire outer circumference.

Wipers and washers

Windscreen Wipers

Regulation 34(1) of the Road Vehicles (Construction and Use) Regulations 1986 states that all vehicles which are fitted with windscreens must be fitted with **one or more** efficient automatic windscreen wipers, capable of clearing the screen so that the driver has an adequate view of the road in front of both sides of the vehicle and to the front of the vehicle. They must be maintained in good and efficient working order and be properly adjusted.

Windscreen Washers

Regulation 34(2) requires that all vehicles which require one or more automatic wipers must be fitted with a windscreen washer capable of cleaning in conjunction with the wipers, the area of the windscreen swept by the wiper of mud or similar deposit.

Exemptions to the requirement for washers

- agricultural motor vehicle other than one first used on or after 1 June 1986 and driven at more than 20 mph
- track laying vehicle
- vehicle incapable of exceeding 20mph
- vehicle providing a local bus service

Carrying a Dangerous Load

Regulation 100(2) Road Vehicles (Construction and Use) Regulations 1986

The load carried by a motor vehicle or trailer shall at all times be so secured, if necessary by physical restraint other than its own weight, and be in such a position, that neither danger nor nuisance is likely to be caused to any person or property by reason of the load or any part thereof falling or being blown from the vehicle or by reason of any other movement of the load or any part thereof in relation to the vehicle.

Power of arrest without warrant – constable only

This regulation requires any load carried by a vehicle to be secured at all times. Some items moved by road are extremely heavy and will remain in place due to their weight – obviously if something is that heavy any restraints sufficient to hold it in place would be so massive as to be impractical, so it is not necessary to provide additional restraint.

Test to apply to establish if the offence is complete

What may be perfectly acceptable under some conditions may be an offence under others, so the following variables should be taken into account:

- a) the nature of the journey
- b) the way in which the load is secured
- c) the way in which the load is positioned
- d) The journey to be taken

Goods Vehicles (LPGO_8_07) v1.00

These notes deal with the suggested procedure that may be followed when inspecting goods vehicles. Action regarding other types of motor vehicles is dealt with in other notes.

Many of the checks that can be made on goods vehicles can only be done so with the help of specialist equipment and expert knowledge. In cases such as these (e.g. testing overloaded vehicles that need a weighbridge) it will be necessary to contact your force and ask for assistance. However there are some checks that can be carried out:

- Check the driver's licence to ensure that it covers the class of vehicle being driven
- Check that the vehicle has a plate or certificate giving the plated weight and ensure that the plate or certificate is genuine
- Check that there is an operator's licence in existence, i.e. that the operator of the vehicle has a licence to carry goods. You may need to do this via force
- Ask the driver for all paperwork relating to the journey and the load, including a consignment note to cover the goods
- Inspect the load for
 - Overloaded goods
 - Dangerous loads
- Inspect the tachograph to check the driver's hours
 - Read the chart if the tachograph is Analogue
 - Ask the driver to produce a record if the tachograph is Digital
- If you suspect that an offence may have been committed
 - Retain all paperwork
 - Detain the vehicle
 - Contact the appropriate point in your force and obtain assistance
 - Make a full written record

Hackney Carriages and Private Hire Vehicles (LPGO_8_08)

v1.00

This module looks at the legislation surrounding the use and licensing of what are commonly known as 'taxis'. These vehicles are divided into 2 specific categories, 'Hackney Carriages' and 'Private Hire Vehicles' (PHVs).

Hackney carriage

Section 38 of the Town Police Clauses Act 1847 defines a 'hackney carriage'.

'Every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire upon any street (or road, square, court, alley, thoroughfare, public passage) within the prescribed distance (a set distance from the town centre within which the vehicles operate as hackney carriages)...

Private hire vehicle

A private hire vehicle means a motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle or a London cab or tramcar, which is provided for hire with the services of a driver for the purpose of carrying passengers.

Whilst private hire vehicles carry out the same function of a Hackney carriage, there is no facility to 'flag down' a PHV. The journey still results in a fare being paid, the 'hire' of the vehicle is 'pre-booked' as opposed to the rather instantaneous method of using a Hackney Carriage.

Display Badge

(a) A driver shall at all times when acting in accordance with the driver's licence granted to him wear such badge in such position and manner as to be plainly and distinctly visible.

(b) If any person without reasonable excuse contravenes the provisions of this subsection, he shall be guilty of an offence

Associated issues

Section 63 of the Local Government (Miscellaneous Provisions) Act 1976 provides a facility for local councils to supply 'stands' for Hackney carriages, these must be in consultation with the local chief of police and must be accompanied by an advertisement in at least one local paper in the district in which the stand is to be constructed.

It may well be that these areas provide some problems for you as an officer, particularly when people leave drinking establishments late at night and attempt to take a cab home, there is often large numbers of people gathered in one spot, many of whom have been drinking.

This situation can provide a 'flashpoint' and result in public order incidents that often lead to assaults.

You may be tasked with carrying out 'high profile' patrols in these areas to act as a deterrent to those who would seek to behave inappropriately.

Police Station Procedure (Drink Drive) (LPG0_8_10) v1.02

Drink driving and impairment-Provision of specimens for analysis

Section 7-Road Traffic Act (RTA) 1988

- (1) In the course of an investigation into whether a person has committed an offence under section 3A (see below), 4 or 5 of this Act a constable may, subject to the following provisions of this section and section 9 of this Act, require him –
 - (a) to provide two specimens of breath for analysis by means of a device of a type approved by the Secretary of State, or
 - (b) to provide a specimen of blood or urine for a laboratory test
- (2) A requirement under this section to provide specimens of breath can only be made –
 - (a) at a police station,
 - (b) at a hospital, or
 - (c) at or near a place where a relevant breath test has been administered to the person concerned or would have been so administered but for his failure to cooperate with it

Note: Section 3A of the Road Traffic Act 1988- Causing death by Careless Driving when under the influence of drink or drugs.

Powers of arrest without warrant- constables/other persons

The full provisions of Section 7(2A) – (7) can be found in LPGO_8_10 Pgs 6-8

Explanation

Under Section 7, in the course of investigating either a Section 3A, 4 or 5 offence the driver can be required to provide “two specimens of breath for analysis by means of a device of a type approved by the Secretary of State, or, a specimen of blood or urine for a laboratory test”.

Relevant breath test.

Most approved devices are located at police stations and therefore the requirement to provide two further samples of breath will generally be made there after the person has been arrested.

However, it may be the case that your force has approved devices issued to them for use at the places mentioned in section 7(2)(b) or (2)(c) as mentioned above.

Requirements to provide specimens of blood or urine can only be made at a police station or at a hospital and it cannot be made at a police station unless certain conditions are met. There may be local variations on this, and your tutors/supervisors will be able to explain the procedures to you.

Protective Helmet Offences (LPGO_8_11) v1.02

Driving or Riding on Motor Cycle in Contravention of Regulations- Contrary to the Road Traffic Act 1988 section 16(4)

‘A person who drives or rides on a motor cycle in contravention of regulations under this section is guilty of an offence’

Power of arrest without warrant – constable only

Motor Cycles (Protective Helmets) Regulations 1998 (as amended)

Every person driving or riding (otherwise than in a side-car) on a motor bicycle on a road shall wear protective headgear of an approved type, securely fastened.

Exceptions:

- when a motorcycle is being propelled by a person on foot (NB: It is submitted that if the motorcycle is being propelled 'scooter' style then the driver and passenger (if present) should wear a helmet)
- a follower of the Sikh religion while he is wearing a turban
- a mowing machine

Note: The regulations do not apply to all motor cycles, but to motor bicycles only. It is easy to get confused, and the following definitions may help.

Definitions: See LPG1_8_19 Classification of Vehicles

Offenders under the Age of 16 Years

Where a person riding on a motor bicycle without a helmet is 16 years or over, that person only is responsible for the offence committed and no other person can be prosecuted for aiding and abetting the offence. For example, where two 17-year-olds are riding on a motor bicycle and neither of them is wearing a crash helmet they can each be prosecuted for the offence, but not for aiding and abetting one another. However, if one was 17 and the other was 15 years of age the older person may be prosecuted for aiding and abetting the younger as well as failure to wear a helmet. The younger would only commit the offence.

Eye Protection

The use of eye protectors is not required under the regulations. However, if they are used, they must be of a prescribed standard as specified in the Motor Cycles (Eye Protectors) Regulations 1999.

Public Service Vehicles (LPG0_8_12) v1.01

Public Service Vehicle (PSV): "A motor vehicle (other than a tramcar) which –

- a) being a vehicle adapted to carry more than 8 passengers, is used for carrying passengers for hire or reward; or
- b) being a vehicle not so adapted is being used for carrying passengers for hire or reward at separate fares in the course of a business of carrying passengers."

To be classed as a PSV the vehicle must be used to carry passengers for hire or reward.

'Is used': is being used or has been used for the carriage of passengers for hire or reward and that use has not been permanently discontinued.

Driving Licence Requirements for PSV

PSV Licence may be limited to specific type or types of vehicles, which will be specified in the licence.

- Must hold a valid DVLA Driving Licence for relevant class of vehicle
- Must hold a PSV Driving Licence granted under Part III of the Road Traffic Act 1968
- 21 years of age or over
- Be a fit person to hold a PSV licence
- Be free of any physical disability that would prevent them being granted a licence

Offences in relation to PSVs

1. Driver, Inspector or Conductor of PSV contravening or failing to comply with any of the provisions of the Regulations. Contrary to Section 24(2) Public Passenger Vehicles Act 1981)
2. Contravene or fail to comply with the requirements of the Regulations. Contrary to Section 25(3) Public Passenger Vehicles Act 1981

Arrest without warrant – constable only for both offences

Passenger Carrying Vehicle (PCV):

A vehicle used for carrying passengers, which is constructed or adapted to carry more than 16 passengers (a 'large PCV'), OR

A vehicle used for carrying passengers for hire or reward and which is constructed or adapted to carry more than 8 but not more than 16 passengers (a 'small PCV').

Driving Licence Requirements for PCV

- Must hold valid DVLA driving licence for the relevant class of vehicle (Class D or D1)
- Must also hold a PCV driving licence issued under Section 110 of the Road Traffic Act 1988.
- Must be 21 years or over. (A member of the armed forces can drive vehicles in classes D, D1 and D1+E at the age of 17 years).

Person under 18 years may also drive a PCV where they are learning to drive or taking PCV to a test, or not engaged in the carriage of passengers or after passing PCV test when:

- Driving on a regular service where the route does not exceed 50 km;
- Driving a PCV constructed to carry no more than 16 passengers; or
- The vehicle is operated under a Public Service Vehicle (PSV) Operator's licence or permit

Exemption from requirement to hold PCV licence

Police Officer for purposes of:

- removing or avoiding obstruction to other road users or other members of the public
- protecting life or property (including the vehicle and its passengers); or
- other similar purposes

Minibus Permits

Allow certain organisations to make a charge without having to comply with the full PCV entitlement operator licensing requirements and without the need for their drivers to have PCV licences e.g. volunteer groups concerned with education, religion, social welfare etc. that are beneficial to the community. The permit is for a vehicle that can carry between 9 and 16 passengers.

Offences in relation to PCV licences

1. Fail to comply with the conditions of a passenger carrying vehicle licence.
Contrary to Section 114(1) Road Traffic Act 1988
2. Driving a passenger carrying vehicle otherwise than in accordance with a licence. Contrary to Section 87(1) Road Traffic Act 1988
3. Knowingly cause or permit a person under 21 years to drive a PCV in contravention of the prescribed conditions. Contrary to Section 114(2) Road Traffic Act 1988

Power of arrest without warrant – constable only for all 3 offences

Riding cycles on footpaths (LPG0_8_14) v1.00

Cycling on footpaths-Section 72 of the Highway Act 1835

It is an offence to wilfully ride a pedal cycle on a footpath or causeway by the side of the road.

‘Wilfully’ in this section means purposely. The section applies only to footpaths or causeways that made or are set apart for the use of pedestrians and are at the side of a road.

Footpath: means a highway over which the public have a right of way on foot only, not being a footway.

There is no general offence to cover footpaths that are located away from roads. Such footpaths may be made subject to local to Local Traffic Orders or byelaws. Where these are in force, signs will usually be displayed.

Methods of dealing with the offence

There are various methods of dealing with the offence of cycling on footways.

These methods include:

- verbal warning
- written warning
- fixed penalty notice – under Section 51 and schedule 3 of the Road Traffic Offenders Act 1988 in respect of an offence under section 72 of the Highway Act 1835
- report for summons (constable only)

Please note, if the pedal cycle is being ridden in a dangerous or inconsiderate manner you may also consider issuing a Notice of Intended Prosecution (NIP).

- applicable only to constables and PCSOs designated with Traffic Warden Powers

Seat belt offences (LPG0_8_16) v1.04

Wearing of seat belts

Adults: The basic rules for adults are that every person:

- driving a motor vehicle (other than a two-wheeled motor cycle with or without a sidecar), or
- riding in a front or rear seat of a motor vehicle (other than a two-wheeled motor cycle with or without a sidecar),

shall wear an adult belt. This rule does not apply to a child who is under the age of 14 years.

These rules apply to the following vehicles:

- passenger cars
- light goods vehicles (whose maximum laden weight does not exceed 3.5 tonnes, four or more wheels, design speed in excess of 25 kmph)
- small buses (constructed/adapted for carrying passengers, not standing passengers, not a goods vehicle, eight or more seats in addition to driver's seat, four or more wheels, maximum laden weight not exceeding 3.5 tonnes, design, speed not exceeding 25 kmph)

Adults and children aged fourteen years and over are required to wear available front and rear seat belts in all categories of vehicles, including the rear seats of buses and goods vehicles.

In all cases, under Section 14(3) of the Road Traffic Act 1988, adults not wearing seat belts are responsible for themselves. The driver does not commit an offence when an adult passenger is not wearing a seat belt.

Some exemptions for adults to wear seat belts

Refer LPG0.8.16 pages 7 – 8 for a comprehensive list

- the driver of, or passenger in, a motor vehicle constructed or adapted for carrying goods while on a journey that does not exceed 50 meters and is undertaken for the purpose of delivering or collecting anything
- a person performing a manoeuvre which includes reversing
- a qualified driver supervising a learner carrying out a manoeuvre which includes reversing
- the driver of a licensed taxi drivers while plying for hire, answering calls for hire or carrying passengers for hire
- private hire drivers while carrying passenger for hire
- a person driving or riding in a vehicle being used for fire and rescue authority or police purposes or for carrying a person in lawful custody

Police Powers: Failure to comply with any requirement in relation to the wearing of a seat belt is an offence.

Power of arrest without warrant – constables only

In most instances you will deal with the failing to wear a seat belt by issuing a fixed penalty notice.

Children and seat belts

Regulation 5 of the Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) Regulations 1993 prescribe the types of seat belt or child restraint that should be worn by children under the age of fourteen of different ages and sizes. Different provision is made depending on whether a child is a small child or a large child.

Small child

A small child is a child aged under twelve years and under 135 centimetres in height and must be secured by a child restraint which is suitable for his/her weight and height.

Large child

A large child is a child under fourteen who is not a small child and must be secured by a child restraint which is suitable for his/her weight and height or an adult belt.

Exemptions for children wearing a seat belt in front seats

The exemptions for children wearing seat belts in the front seat of a vehicle are found in Regulation 7 of the Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) Regulations 1993. Regulation 7(1) states that the requirement in Section 15(1) of the Road Traffic Act 1988 for a child to wear a seat belt in a front seat shall not apply in relation to:

- a small child aged three years or more who is riding in bus and is wearing an adult belt if an appropriate seat belt is not available to him/her in the front or rear of the vehicle
- a child for whom there is a medical certificate
- a disabled child who is wearing a disabled person's belt
- a child riding in a bus which is being used to provide a local service in a built-up area, or which is constructed or adapted for the carriage of standing passengers and on which the operator permits standing

Note: The prohibition in section 15(1) of the Road Traffic Act 1988 shall not apply in relation to a large child if no appropriate seat belt is available for him in the front of the vehicle.

Some exemptions for children wearing a seat belt in rear seats

The exemptions for children in the rear of vehicles are listed in Regulation 10 of the Motor Vehicles (Wearing of Seat Belts) Regulations 1993. The requirements in relation to the wearing of seat belts in the rear of a vehicle do not apply in relation to:

- a child for whom there is a medical certificate
- a small child aged 3 years or more who is riding in a licensed taxi, a licensed hire car or a small bus and where an appropriate seat belt is not available for him/her in the front or rear seat of the vehicle

Refer LPG0.8.16 for a comprehensive list.

A chart summarising the requirements of the seat belt legislation can be found in LPG0.8.16.

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