

Police Powers

Driver – Legal

Related Drivers – Mental Health, Neighbourhood Policing, Violent Crime – Sexual Violence, Criminal Legislation, Public Confidence in Policing

Background

The **Police and Criminal Evidence Act 1984 (PACE)** instituted a legislative framework for the powers of police officers in England and Wales as well as providing codes of practice for the exercise of those powers.¹

A review of PACE was issued in 2008 to gather views and comments regarding PACE and its application to 21st century policing, specifically looking at areas of reducing bureaucracy, freeing up officer time, increasing accountability and raising public confidence. After views and comments were collated, the government responded with a series of specific recommendations for change which went through consultation until the end of November 2008.²

The proposed changes cover a variety of subject areas which can be seen below. This section primarily focuses on the proposed changes to PACE which will have the greatest impact on future skills. They are highlighted below.

Detention

- transfer responsibility for considering and granting extensions of detention from Superintendent to Inspector
- require custody officer formal review of detention at 6 hours and first Inspector review at 10 hours (this gives custody officer a formal timeline to assess progress on the investigations)
- repeal existing provisions enabling the use of non-designated police stations for detention through the use of remote video links
- enable the use of Short Term Holding Facilities for high volume low-level crime.

Recently the IPCC has raised **concerns over the “queue busting” policy** which is used at some custody suites in England & Wales. The policy in question is designed to alleviate queues in custody suites at busy times by allowing people to be issued with fixed penalty notices without being taken through the full custody process laid out in the PACE.

The PACE procedure would involve a prisoner being brought before a custody officer, processed and risk assessed. The queue busting policy has raised the following concerns:

- there is a risk that the full records of detainees dealt with under the policy are not accessed

- warning markers about possible self harm may be missed
- the policy does not give the opportunity for a full risk assessment of a prisoner to be undertaken.³

In addition, the IPCC published the study, *Near Misses in Police Custody: a collaborative study with Forensic Medical Examiners in London* which examined incidents which resulted in or could have resulted in serious illness or self-harm of those held in police custody. It was estimated that there are around a thousand near misses in police custody in England & Wales every year. Of these, 400 were likely to lead to death without prompt intervention.

Evidence from IPCC suggestions, learning lessons work and this study indicate that there are a number of areas that police forces need to focus on:

- the need for **good quality risk assessment** when a detainee enters custody to determine whether detention is appropriate and, if it is, what level of supervision is required
- ensuring that Custody Officers, as part of their training, gain sufficient **awareness of the symptoms of key conditions, involving substance misuse and health conditions**, to be able to conduct robust risk assessments
- **appropriate training for custody staff** so that they are sufficiently aware of, and are able to identify, certain risks among detainees
- those responsible for the overall management of custody suites in police forces to **reinforce to staff the importance of following procedures** and to provide training centering on the care of vulnerable detainees.⁴

Bail

Rationalise existing provisions to provide a single statutory approach to police bail. This includes the following proposed changes:

- create two new offences of failing to comply with conditions attached to bail issued on street or issued pre-charge at the police station
- enable pre-charge bail conditions to be amended following a decision to issue further bail
- provide police with the power to enter premises in any circumstance where reasonable suspicion exists and it is necessary for the enforcement of bail
- new power to arrest in case of failure to answer police bail
- extend the discretionary power to attach conditions to police bail before charge.

The **Police Reform Act 2002 (Standard Powers and Duties of Community Support Officers) Order 2007** came into force on 1 December 2007 and includes a standard list of 20 powers in England & Wales.⁵ Section 38 of the Police Reform Act 2002 allows a chief

officer to designate powers to PCSOs. At present there are 53 powers, including the standard 20, and a number of local authority by-laws which can also be designated, usually enforced by the issue of Fixed Penalty Notices.

All PCSOs are designated with these powers (once trained in their use). A number of forces presently designate PCSOs all powers available whilst others adopt a more selective and restrictive approach. The resultant variation between some forces has led to some confusion and misunderstanding. Both the Police Federation and UNISON called for the adoption of all 53 powers to ensure national standardisation.

Research carried out by the Neighbourhood Policing Programme shows that the majority of powers issued are seldom used, particularly when large numbers of powers are designated. There is also variation between forces regarding those powers outside the Police Reform Act 2002 that are allocated to PCSOs.⁶

In the autumn of 2008, the NPIA were carrying out further clarification and research to map PCSO powers against the role. The Home Office powers audit also presents an opportunity to establish a national picture of what powers forces are designating and using. Significantly, the review also identified the need to increase awareness amongst staff of the role and powers of PCSOs.

Recommendations from the NPIA PCSO review regarding powers are as follows:

- forces should review currently designated powers to ensure they are all required and used by their PCSOs
- following the Home Office powers audit, the NPIA will work with forces and the Home Office to consider additional and/or alternative powers and seek to resolve any anomalies
- the NPIA will work with forces to ensure that suitable training is available and awareness is raised at all levels of the service regarding the role, deployment and powers of PCSOs.⁷

Potential Skills Needs

Analytical skills – to identify symptoms of key conditions, involving substance misuse and health conditions

Charging skills – to determine whether a suspect should be released with charge or on bail pending CPS advice and current legislation

Communication skills – in particular with detainees; and to communicate the roles and powers of the PCSO role within the service and to the public

Information sharing skills – to provide effective information to partner agencies

Monitoring skills – monitor the state of detainees in custody

Risk assessment skills – identify risks posed by detainees in custody suites

Risk management skills – manage and mitigate risks within custody suites

¹ [Home Office website](#)

² [Home Office \(2008\) *PACE review: government proposals in response to the Review of the Police and Criminal Evidence Act 1984*. London: Home Office.](#)

³ [NPIA \(May 2008\). *NPIA Digest*. London: NPIA p32](#)

⁴ [Independent Police Complaints Commission \(2008\) *Misses in Police custody: a collaborative study with Forensic Medical Examiners in London*. London: IPCC.](#)

⁵ [Police Reform Act 2002 \(Standard Powers and Duties of Community Support Officers\) Order 2007](#)

⁶ [Cooper, C. \(2006\) *A National Evaluation of Community Support Officers*. Findings 271, London: Home Office Research, Development and Statistics Directorate.](#)

⁷ [NPIA \(2008\) *Neighbourhood Policing Programme: PCSO Review*. London: NPIA](#)