

# Police station representative accreditation scheme - updated standards

Updated 29 March 2023

These are the detailed assessment standards that have to be met by a solicitor or representative who acts for a person detained in a police station.

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## **Part 1. Underpinning knowledge**

### **Unit 1. Understanding the role of a police representative**

**Assessment outcome 1: Demonstrate a practical understanding of the role of a solicitor or representative advising and assisting a client at the police station.**

#### **Assessment criteria A**

The candidate can explain a solicitor or representative's authority to act for a person detained in a police station.

#### **Knowledge, understanding and skills**

The right of a person arrested and detained by police to consult a solicitor (PACE 1984, s.58).

Gain confirmation by the detained person that they wish to instruct the solicitor or representative.

If instructed by a third party, detained person to be informed that the solicitor has come to the police station and asked to provide written confirmation that they wish to see the solicitor (Code C, Annex B, para. 4).

#### **Assessment criteria B**

The candidate can explain and demonstrate an understanding of the role of a solicitor or representative when acting for a client detained at a police station.

#### **Knowledge, understanding and skills**

Duty of solicitor to act with honesty and integrity and to do their best for each client (SRA Principles (2019)).

The role of a solicitor acting for a client at a police station as set out in Code C, Note for Guidance 6D.

The particular position of a representative (as opposed to a solicitor) in terms of compliance with the SRA Code of Conduct for Solicitors, RELs and RFLs (2019), and the PACE Codes.

Specific objectives of a solicitor or representative acting for a person detained at a police station, including:

- Securing information, from the client and the police
- Advising the client in private
- Advising the client on matters arising during the period of detention
- Presence of the solicitor or representative at police interviews of the client
- Safeguarding the client's rights
- Acting ethically
- Where relevant, considering the implications of the client's immigration status.

### **Assessment criteria C**

The candidate can identify the needs and vulnerabilities of clients detained at a police station, particularly clients from particular groups, and the appropriate action to be taken to meet those needs. Knowledge, understanding and skills.

Considering, in general terms, the needs of a client detained at a police station, and appropriate advice to be given and action to be taken.

Understanding the particular challenges faced by clients detained at a police station from different groups, particularly clients who are young and vulnerable, and ethnic minority clients.

Understanding that people from some groups (particularly young ethnic minority clients) may be suspicious of lawyers paid by the state and may need additional reassurance as to the role and independence of police station representatives and solicitors.

Recognising that some people may be at a disadvantage at the police station, or may feel disadvantaged, because of their background.

Those with a disadvantage may include:

- people from minority ethnic communities
- those from minority faith communities
- those who do not speak or understand English



- clients with disabilities (physical, mental, or sensory)
- women
- children
- older people
- those with alcohol or drug dependency issues
- those whose sexual orientation is not heterosexual
- transgender people
- those who have been trafficked or have experienced sexual exploitation or modern slavery
- those who through poverty or any other reason are socially or economically marginalised
- those with a mental disorder or mental vulnerability
- neurodivergent people including those with Autism Spectrum Disorder (ASD), Attention Deficit Hyperactivity Disorder (ADHD), dyslexia etc.

#### **Assessment criteria D**

The candidate can identify inappropriate behaviour of police officers, and the appropriate action to be taken

##### **Knowledge, understanding and skills**

Types of inappropriate behaviour include but are not limited to:

- Refusal of/inadequate disclosure
- Adequacy of time/facility allowed for private consultation
- Oppressive or unfair interrogation technique.

Appropriate action may include:

- Recording the circumstances of the conduct
- Making representations to a senior officer
- Making a formal complaint.

#### **Assessment criteria E**

The candidate can identify and correctly apply ethical rules and principles relevant to advising and assisting a client at a police station.

##### **Knowledge, understanding and skills**

SRA Code of Conduct as it relates to providing advice and assistance to a client detained by the police, in particular:

- The duty to the client
- Client confidentiality and privilege
- Conflict of interests.

Applying ethical rules may require:

- Appropriate advice to the client, eg, with regard to providing false information to the police
- Withdrawal from a case, without breaching the duty of confidence.

#### **Assessment criteria F**

The candidate can demonstrate an understanding of the importance of maintaining accurate records.

##### **Knowledge, understanding and skills**

The purpose of maintaining accurate records, eg, to facilitate the transfer of the case to another solicitor or representative, to record conduct which may be relevant at trial.

The content of records should include:

- The information obtained from the police
- The instructions obtained from the client
- Actions taken by the solicitor or representative
- Advice given to the client
- Signed disclaimer if the client goes against advice.

#### **Assessment outcome 2: Demonstrate knowledge and understanding of criminal law and procedure.**

##### **Assessment criteria A**

The candidate can explain the basic sequence of events in criminal cases, including the decision on whether a case is tried in the magistrates court or crown court.

##### **Knowledge, understanding and skills**

From the client's arrest or agreement to attend as a volunteer, through arrival and detention at a police station, charge, appearance in court, to conviction, sentence and appeal.

Critical issues include:

- Arrest and detention
- Methods of initiating proceedings (charge, written charge, summons)
- Time limits
- Classification of offences and the decision on Allocation of cases to different courts
- Courts (magistrates' court, youth court, Crown Court)



- Funding and legal aid.

### **Assessment criteria B**

The candidate can explain the meaning of legal terms relevant to advising and assisting a client at a police station, and apply them to factual scenarios.

#### **Knowledge, understanding and skills**

Candidates will be expected to know and understand the meaning of, and be able to apply, the following legal terms:

- Arrest
- Police detention
- Reasonable suspicion
- Reasonable force
- Burden of proof
- Actus reus and mens rea
- Dishonesty
- Intentionally, recklessly, maliciously
- Knowing or believing

### **Assessment criteria C**

The candidate can explain the modes of participation in crime, and apply them to factual scenarios.

#### **Knowledge, understanding and skills**

Candidates will be expected to know and understand and be able to apply the following modes of participation in crime:

- Principal
- Accessory - aid, abet, counsel or procure
- Joint venture
- Attempt

### **Assessment criteria D**

The candidate can explain the different forms of criminal sanction, including out-of-court disposals, and sentence discount.

#### **Knowledge, understanding and skills**

Candidates will be expected to know and understand:

- The different forms of criminal sanction:



- Custodial sentences
- Community orders
- Absolute and conditional discharge
- Binding over
- Out-of-court disposals
- Fixed penalties
- Sentence discount for an indication of guilt/guilty plea
- In the case of out-of-court disposals, how to access the statutory provisions, regulations, and guidance governing them.

### **Assessment criteria E**

The candidate can explain the law and procedure relating to young clients and defendants.

#### **Knowledge, understanding and skills**

Candidates will be expected to know and understand the definition of youth, child and young person.

- The ways in which the PACE 1984 and the Codes of Practice are modified in the case of youths
- The different way the decision on trial venue is dealt with for young people
- The different forms of sentence and sanction that apply to children.

### **Assessment outcome 3: Demonstrate an understanding of the common crimes and defences relevant to advising and assisting a client at a police station and an ability to identify the elements of other crimes.**

#### **Assessment criteria A**

The candidate can identify the elements of crimes commonly encountered, and apply them to factual scenarios.

#### **Knowledge, understanding and skills**

Candidates must be able to demonstrate a practical knowledge and understanding of the elements of the following common crimes:

- Assault, in its various forms: common assault, assault occasioning actual bodily harm, assault on a police officer in the execution of his/her duty, wounding or grievous bodily harm, wounding or grievous bodily harm with intent
- Drugs offences: categories of controlled drugs, possession, possession with intent to supply, supply, production/cultivation
- Offences of dishonesty: theft, handling, fraud, robbery, burglary



- Possessing an offensive weapon/bladed article
- Offences involving motor vehicles: taking a conveyance without authority, allowing to be carried, aggravated taking, driving whilst disqualified, driving without insurance, dangerous driving, driving under the influence of alcohol or drugs
- Public order offences: affray, using threatening, abusive or insulting words or behaviour with intent (Public Order Act 1986, ss. 4 and 4A), causing harassment, alarm or distress (Public Order Act 1986, s. 5)
- Criminal damage.

### **Assessment criteria B**

The candidate can demonstrate an ability to determine the elements of crimes that are not commonly encountered.

#### **Knowledge, understanding and skills**

Candidates must be able to explain how they would determine the elements of a crime with which they are not familiar, eg, by consulting an appropriate legal text, or by accessing the relevant statute.

### **Assessment criteria C**

The candidate can identify the defences that may relate to the crimes referred to in 3a and determine whether they are relevant by reference to given facts.

#### **Knowledge, understanding and skills**

Candidates must be able to demonstrate an understanding of general defences, such as self-defence. And an awareness of specific defences to the crimes referred to in 3 A, sufficient to enable advice to be given to a client about the strengths and weaknesses of the prosecution case and the strategy to be adopted in any police interview.

## **Assessment outcome 4: Demonstrate a practical understanding of the rules of evidence insofar as they are relevant to advising and assisting a client at a police station.**

### **Assessment criteria A**

The candidate can explain the legal and evidential burdens, and standards, of proof as they relate to the prosecution and defence, and the implications for advice to be given to a client.

#### **Knowledge, understanding and skills**

Candidates must understand the following evidential rules, and how they may affect advice to be given to a client, particularly in respect of the strategy to be adopted in a police interview:

- The legal burden of proof
- The evidential burden of proof
- The standards of proof
- The reversal of the burden of proof in respect of the crimes referred to in 3a.

### **Assessment criteria B**

The candidate can explain how facts become evidence, and the implications for advice to be given to a client.

#### **Knowledge, understanding and skills**

Candidates must understand the evidential and procedural rules applicable to the issues listed, and how they may affect advice to be given to a client, particularly in respect of the strategy to be adopted in a police interview:

- Hearsay and its exceptions
- Competence and compellability of witnesses
- Relevance and admissibility
- Documentary evidence
- Corroboration
- Opinion evidence
- Previous misconduct and character
- Admissibility and strength of identification evidence.

### **Assessment criteria C**

The candidate can explain and evaluate the evidential consequences of different strategies that may be adopted by a client in police interview, and the implications for advice to be given to a client.

#### **Knowledge, understanding and skills**

Candidates must be able to demonstrate:

- An understanding of the following possible strategies, and the implications for advice to be given to a client:
- Remaining fully or selectively silent
- Failing to inform the police of facts upon which they may rely on in their defence (CJPOA 1994, s. 34)
- Failing to account for an object, substance or mark, or to account for the presence of the client at a particular place (CJPOA 1994, ss. 36)





- and 37)
- Denying guilt in a police interview
- Lying in a police interview
- Making a confession
- Submitting a prepared statement.

#### **Assessment criteria D**

The candidate can demonstrate an understanding of legal professional privilege.

##### **Knowledge, understanding and skills**

Candidates must be able to explain:

- The rules regarding legal professional privilege: covering communications between a lawyer (including a representative) and their client which are made for the purposes of enabling the client to obtain or the lawyer to give legal advice
- The circumstances in which privilege does not apply
- Waiver of privilege, both express and implied.

#### **Assessment criteria E**

The candidate can demonstrate knowledge and understanding of the rules regarding the admissibility of confession evidence, and evidence that may have an adverse effect on the fairness of proceedings, and the implications these rules may have for action to be taken by the solicitor or representative.

##### **Knowledge, understanding and skills**

Candidates must be able to demonstrate a practical understanding of the rules regarding the admission and exclusion of:

- Confession evidence (PACE 1984, s. 76)
- Prosecution evidence that may have an adverse effect on the fairness of the proceedings (PACE 1984, s. 78)
- Confession by a co-accused.

Candidates must be able to explain what action they would take (if relevant), having regard to the above rules, either at the police station or subsequently.

**Assessment outcome 5: Demonstrate a practical understanding of the Police and Criminal Evidence Act 1984 (PACE) and the PACE Codes of Practice.**



### **Assessment criteria A**

The candidate can demonstrate an understanding of the status of, and the relationship between, PACE and the Codes of Practice.

#### **Knowledge, understanding and skills**

Candidates must be able to demonstrate an understanding of the implications of the status of PACE (primary legislation), and the Codes of Practice (given effect by secondary legislation) in terms of:

- Their application
- Their enforceability
- The relationship between the two, and between them and other forms of regulation, codes and other forms of guidance.

### **Assessment criteria B**

The candidate can demonstrate a practical knowledge and understanding of key provisions of PACE and the Codes of Practice and, where relevant, their interpretation by the courts.

#### **Knowledge, understanding and skills**

The key provisions of PACE and the Codes of Practice referred to in 5.b. are:

- Powers of arrest
- Provisions regarding volunteers
- Powers of detention at a police station, without and following charge
- Detention time limits, and extension of detention without charge
- Review of detention
- Custody records
- Rights to information, including the right to be informed of procedural rights
- The right to consult a solicitor
- The right to have someone informed of an arrest
- Powers of search of the person
- Powers of search of property
- Powers to take biometric samples, photographs, footwear impressions and skin impressions, and drug-testing
- Provisions regarding children, and mentally disordered or vulnerable clients
- Provisions regarding interpretation and translation
- Provisions regarding foreign nationals
- Provisions regarding police interviews, including commencement and termination, intervention by the solicitor or representative, and recording of interviews



- Identification procedures
- The decision to charge
- Release without bail, or on bail without or following charge.

### **Assessment criteria C**

The candidate can demonstrate an understanding of the potential consequences of breach of provisions of PACE or the Codes of Practice, and appropriate action that may be taken by the solicitor or representative.

#### **Knowledge, understanding and skills**

Candidates must be able to demonstrate that they understand the potential consequences of breach of provisions of PACE or the Codes of Practice, and the courses of action open to the client and/or the solicitor or representative, including:

- Referring a breach to a more senior officer
- Making a contemporaneous record of an identified breach
- Requesting that representations by the solicitor or representative be recorded on the custody record
- Exclusion of evidence
- Formal complaint
- Civil action against the police.

## **Part 2. Underpinning skills**

### **Unit 2: Communication, negotiation, interviewing and advising skills**

**Assessment outcome 1: Communicate effectively with the client, the police officers involved and any third parties.**

#### **Assessment criteria**

The candidate can:

- Use language appropriate for the recipient
- Identify if there is a need for an interpreter
- Express requests, objections, ideas and advice with precision, logic and economy
- Listen actively
- Speak effectively and assertively
- Communicate in a manner and form that takes account of ethnic, cultural or other forms of diversity.

**Assessment outcome 2: Negotiate effectively.**

### **Assessment criteria**

The candidate can:

- Identify the issues to be resolved
- Assess the relative strengths and weaknesses of the parties' positions
- Identify the strategy and tactics adopted by the other party
- Explain the benefits that would result from an agreement to his or her request
- Generate alternative approaches to the issues
- Make accurate records of the negotiation and the outcome.

**Assessment outcome 3: Elicit effectively the relevant information from the client in order to be able to offer appropriate advice.**

### **Assessment criteria**

The candidate can:

- Allow the client to explain their position
- Elicit relevant information
- Gain the trust and confidence of the client
- Assist the client to be able to decide upon the best course of action
- Agree on the action to be taken by both the client and the representative
- Deal with the client in a manner which takes proper account of ethnic, cultural and other forms of diversity
- Deal with any ethical problems which may arise when advising the client
- Accurately record the information elicited and the advice given.

## **Part 3. Standards of performance**

### **Unit 3. Responding to a request to attend**

**Assessment outcome 1: Obtain initial information about the detained person and their circumstances.**

#### **Assessment criteria A**

Obtain appropriate initial information about the detained person and relevant circumstances, depending upon the source of the request.

#### **Knowledge, understanding and skills**



The initial request to attend may come from the Defence Solicitor Call Centre (DSCC), a third party, or (less frequently) the police or the person detained. The initial information to be obtained will depend upon the source of the request.

Request from the DSCC – seek information concerning the name and location of the detained person, and the offence(s) for which they have been arrested.

Request from a third party – seek information about their relationship with the detained person, what they know about the circumstances of the arrest, and the location of the detained person.

Request from the police – seek information about the location of the detained person, whether they have been arrested or are a volunteer, the offence(s) for which they have been arrested or in respect of which they are a volunteer, and the reason why the request has not been directed to the DSCC.

Request from a client – seek information about whether they have been arrested, their location and, if arrested, the reason for and circumstances of the arrest.

#### **Assessment criteria B**

- Make an appropriate assessment of the authority, and any obligation, to act for the detained person.

#### **Knowledge, understanding and skills**

If the initial referral is from the DSCC or the police this is sufficient authority to act, subject to confirmation by the client at the earliest opportunity.

If the initial referral is from a client, confirmation that they wish the solicitor or representative to act for them should be obtained.

If the initial referral is from a third party, an assessment should be made of whether their instructions arise from a genuine concern for the client's welfare and should be confirmed with the client at the earliest opportunity.

The solicitor or representative should make an assessment of any obligation to act for the client and/or to attend in person. For example:

- The DSCC requires that the solicitor or representative should endeavour to make first contact with the client (in person or by telephone) within 45 minutes of first notification of the request for advice.



- The DSCC provides that in the absence of exceptional circumstances, once a case has been accepted, attendance in person is mandatory –
- To provide advice and to attend all police interviews with the client where the client has been arrested in connection with an offence
- At an identification parade, group identification or confrontation
- Where the client complains of serious police maltreatment.

### **Assessment criteria C**

Identify any initial indications of vulnerability, or special needs, of the client.

#### **Knowledge, understanding and skills**

These may result from, or be associated with:

- Age
- Mental disorder or other mental vulnerability
- Inability to speak or understand English
- Immigration status
- The other factors listed in Part 1 Unit 1 paragraph 1(c) which might put certain people at a disadvantage at the police station.

### **Assessment criteria D**

Accurately record all information obtained.

#### **Knowledge, understanding and skills**

- All relevant information obtained must be recorded, including the time that the initial call was first received and the case accepted and the time that first contact is made with the client.
- If the source of the referral is the DSCC, the referral reference number must also be recorded
- If the source of the referral is a third party, their relationship to the client must be recorded.

## **Assessment outcome 2: Consult with the custody officer or detention officer by telephone.**

### **Assessment criteria A**

Inform the custody officer or detention officer of the solicitor or representative's instructions.

#### **Knowledge, understanding and skills**



The custody officer or detention officer should be informed of:

- The solicitor or representative's identity, status and firm
- The fact and source of the instructions to act for the client.
- The custody officer or detention officer should be asked to note the solicitor or representative's telephone call in the client's custody record.

**Assessment criteria B**

Seek confirmation that the client is at the relevant police station, and their status.

**Knowledge, understanding and skills**

The custody officer or detention officer should be asked to confirm:

- Whether the client is at the relevant police station in relation to the investigation of a criminal offence or offences
- Whether the client has been arrested and detained, or is in attendance as a volunteer
- The offence or offences of which the client is suspected.

**Assessment criteria C**

Seek brief details of the circumstances leading to the presence of the client at the police station.

**Knowledge, understanding and skills**

The solicitor or representative should endeavour to obtain the following information:

- If the client was arrested, the date, time and reason(s) for the arrest and the date, time and reason(s) for authorisation of detention
- If the client is a volunteer, the date and time of attendance at the police station, and the reason(s) for attendance
- The date and time of the client's request to consult a solicitor
- Whether the client has been identified as a youth, mentally vulnerable, or as having any special needs, and any action taken
- Whether a risk assessment has been conducted and, if so, the outcome and any action taken.

**Assessment criteria D**

Seek brief details regarding the investigation.

**Knowledge, understanding and skills**



The information to be obtained at this stage includes:

- The identity of the officer(s) dealing with the case
- Whether an interview has already been conducted and, if so, the reasons and authority
- Whether and when an interview (or further interview) of the client is likely to take place
- Whether any other investigative acts, such as search of the person or property have been conducted and/or are anticipated
- Whether anyone else has been arrested or is being sought in relation to the suspected offence(s).

#### **Assessment criteria E**

Seek to speak to the client on the telephone, and deal appropriately with any delay or lack of co-operation.

##### **Knowledge, understanding and skills**

The solicitor or representative should normally speak to the client on the telephone, either immediately or within a short period of time (see 1.b. above); although this may be delayed if, for example, the client is incapable through drink or drugs. Any refusal to facilitate telephone access must be dealt with appropriately, and a full record made.

Note that the police may delay access to a solicitor for up to 36 hours if this is authorised by a superintendent or above, having been satisfied that one or more of the statutory criteria for doing so are satisfied (PACE 1984, s. 58(8)).

#### **Assessment outcome 3: Consult with the client by telephone.**

##### **Assessment criteria A**

Inform the client of the representative's status, and confirm instructions.

##### **Knowledge, understanding and skills**

The solicitor or representative should:

- Inform the client of their name and firm, whether they are a solicitor or representative, and whether they are acting as a duty solicitor/representative or own solicitor/representative.
- Check that the client understands their right to consult a solicitor, and that they are entitled to do so free of charge.
- Explain their role including their independence from police, duty of confidentiality and duty to act in client's best interests.





### **Assessment criteria B**

Seek to establish whether the conversation is confidential, and that the client understands.

#### **Knowledge, understanding and skills**

The solicitor or representative should:

- Seek to assess whether the conversation is likely to be confidential, for example, whether the call is in the presence of a police officer or detention officer.
- Advise the client, as appropriate, of the implications and importance of lack of confidentiality.

### **Assessment criteria C**

Make an initial assessment of whether the client is vulnerable or has any special needs.

#### **Knowledge, understanding and skills**

The solicitor or representative should check with the client any information already received about possible vulnerabilities and/or special needs. And, if necessary, seek further information from the client in order to make an appropriate assessment.

### **Assessment criteria D**

Provide the client with advice about their status, their right to consult a solicitor or representative in person, and their right to silence.

#### **Knowledge, understanding and skills**

Initial advice should be given to the client regarding:

- Their status - for example, if they have been arrested and detained, the initial periods of detention; and if they are a volunteer, that they are free to leave the police station unless they are arrested
- Their right to consult with a solicitor or representative in person, and for the solicitor or representative to be present at any police interview
- Their right to silence, and the importance of not answering questions if interviewed prior to the solicitor or representative's arrival at the police station.

**Assessment outcome 4: Decide what action to take and communicate the decision.**

**Assessment criteria A**

- Make an assessment of their competence to advise on the case.

**Knowledge, understanding and skills**

The solicitor or representative should assess whether they are competent to deal with the case, taking into account:

- the seriousness and complexity of the suspected offence(s)
- any vulnerabilities or particular needs of the client
- their knowledge, expertise and level of experience.

Note that probationary representatives are not permitted to provide advice in respect of indictable-only offences.

**Assessment criteria B**

Take appropriate action if the case is outside of their competence.

**Knowledge, understanding and skills**

If the solicitor or representative concludes that the case is outside of their competence, they should consider:

- Whether they are able to continue to act with advice and/or supervision from a more experienced colleague
- Whether the case should be referred to a more experienced solicitor or representative.
- In either case, appropriate action should be taken to ensure that either appropriate advice/supervision is forthcoming, or that the case is referred to an experienced solicitor or representative, without delay.

**Assessment criteria C**

- Assess whether they should attend upon the client in person, and the timing of such attendance. The solicitor or representative should also assess whether a remote attendance is appropriate or whether they should attend the police station in person in accordance with the current version of the Joint Interim Interview Protocol between the National Police Chiefs Council, CPS, Law Society, CLSA and LCCSA (JIIP).

**Knowledge, understanding and skills**

The solicitor or representative should make an assessment of whether they should attend upon the client in person, taking into account:



- The obligation to attend in person under the DSCC
- Whether the client is vulnerable, is under the influence of drink or drugs, or has other needs
- Whether they are satisfied that confidential advice can be provided on the telephone, and whether they can establish adequate communication with the client by this method
- The outcome of any risk assessment carried out by the police, and whether this indicates that attendance in person is necessary
- The wishes and/or instructions of the client.

#### **Assessment criteria D**

Inform the custody officer and client of the proposed course of action.

#### **Knowledge, understanding and skills**

The solicitor or representative should inform the custody officer or detention officer of their decision regarding attendance in person, and the likely time of their attendance, and should ask that this be noted on the custody record.

The solicitor or representative should speak to the client to inform them of the likely time of attendance, and to advise them not to answer questions if the police proceed to interview before they arrive.

## **Unit 4. Consult with the appropriate officers at the police station**

### **Assessment outcome 1: Consult with the custody officer**

#### **Assessment criteria A**

Inform the custody officer of the solicitor's or representative's status, if not previously provided.

#### **Knowledge, understanding and skills**

The solicitor or representative should inform the custody officer of their identity, status and firm, and seek to ensure that their name and firm is recorded in the custody record.

#### **Assessment criteria B**

Effectively seek information about the client, the suspected offence(s) and the investigation.

#### **Knowledge, understanding and skills**



In seeking information from the custody officer, the solicitor or representative should:

- Consider what information they have already obtained (see Unit 1, 2.b., 2.c., and 2.d.), whether there have been any relevant changes since they obtained that information. And what further information they require in order to be able to provide effective advice and assistance to the client
- Consider whether there are any issues concerning their safety when consulting with the client
- Ask whether the client has been interviewed prior to their attendance and, if so, ask the authority for doing so, and to be provided with a copy of the interview record
- Ask whether the officer has considered whether there are any documents or materials that are essential to challenging the lawfulness of the client's arrest and/or detention, and to be supplied with copies of such documents or materials (Code C para 3.4(b)).

### **Assessment criteria C**

Ask to inspect the client's custody record, and identify and note relevant information.

#### **Knowledge, understanding and skills**

The solicitor or representative has a right to inspect the full custody record provided that this does not interfere with the custody officer's duties (Code C para 2.4; Code H para 2.5).

When inspecting the custody record, the solicitor or representative should:

- Compare the information in the custody record with the information already obtained, and question the custody officer about any discrepancies
- Identify information about any property found on the client, if recorded, and consider the implications
- Identify information about any vulnerabilities of the client that have not previously been disclosed, and consider any appropriate action
- Identify any unusual entries, such as late or deleted entries, and question the custody officer about them.
- Seek a copy of the custody record, or record all relevant information, including any responses of the custody officer.

### **Assessment criteria D**

Seek confirmation that they are able to have a private consultation with the client, and attend any police interviews.

**Knowledge, understanding and skills**

The client has the right to consult with their solicitor or representative in private (PACE 1984, s. 58(1)).

The client, whether arrested and detained or a volunteer, has a right to have their solicitor or representative present during any police interview.

**Assessment criteria E**

Respond appropriately to a refusal to allow access to the custody record, a private consultation with the client, or attendance during the police interview.

**Knowledge, understanding and skills**

In the event of refusal, the solicitor or representative should ask what the authority is for refusal and, if appropriate, direct the officer's attention to the relevant provisions of the PACE 1984 or the Codes of Practice.

If the refusal persists, the solicitor or representative should consider referring the matter to a more senior officer and/or making a formal complaint.

All representations and responses should be recorded.

**Assessment outcome 2: Consult with the investigating officer.****Assessment criteria A**

Inform the officer of the solicitor's or representative's status, if not previously provided, and his/her intention to be present at the interview(s).

**Knowledge, understanding and skills**

The solicitor or representative should inform the officer:

- of their identity, status and firm, and seek to ensure that they make a record of that information
- that they intend to be present at the interview(s) of their client.

**Assessment criteria B**

Effectively seek information about the case, including the evidence that the police have and whether they intend to look for other evidence.

**Knowledge, understanding and skills**

Before a client is interviewed, the client and their lawyer must be given sufficient information to enable the client to understand the nature of the suspected offence. And why they are suspected of it, in order to allow for the effective exercise of the rights of the defence (Code C para 11.1A). this is in addition to the documents and materials referred to in 1.b. above.

The solicitor or representative should seek information concerning:

- The circumstances of the arrest and/or why the client is a suspect
- The evidence that the police have, including any evidence or information resulting from an investigative procedure, such as a search of the person or property
- Any investigative procedures planned
- Whether the client has made any admissions, or any significant statement or silence
- Whether any other individual has been arrested or is sought
- Whether the officer has any other relevant information that has not been disclosed.

#### **Assessment criteria C**

- Effectively seek information about the purpose of the interview.

#### **Knowledge, understanding and skills**

The solicitor or representative should seek information about:

- The purpose of the interview and what the officer intends to cover
- Whether, at this stage, the officer plans to conduct more than one interview and, if so, whether the officer is using a strategy of phased disclosure
- Whether the officer intends to seek the client's comments on any documents or other investigative materials
- Whether, if appropriate, the attitude of the officer to diversion from prosecution.

#### **Assessment criteria D**

Confirm (if appropriate) that the officer has considered the implications of any vulnerability of the client and/or their fitness for interview, and taken appropriate action.

#### **Knowledge, understanding and skills**

Where appropriate, having regard to information provided by the client, the custody officer and/or a third party, the solicitor or representative should ask the officer what arrangements have been made to deal with

any vulnerability or particular needs of the client; for example, arranging for an appropriate adult or interpreter to attend the interview(s).

#### **Assessment criteria E**

Respond appropriately to any refusal to provide information, to permit the solicitor or representative's attendance at the interview, or to take appropriate action regarding any vulnerability.

#### **Knowledge, understanding and skills**

The solicitor or representative should, as appropriate:

- Ask the officer to identify the legal authority for decision
- Consider referring the matter to a more senior officer and/or making a formal complaint.

All representations and responses should be recorded.

## **Unit 5. Consult with the client**

### **Assessment outcome 1: Introduce themselves to the client, seek their trust and assess their needs.**

#### **Assessment criteria A**

Inform the client of their status, if not previously given.

#### **Knowledge, understanding and skills**

The solicitor or representative should, if the information has not previously been provided:

- inform the client of their identity, status and firm
- confirm whether they are acting as duty solicitor or own solicitor.

#### **Assessment criteria B**

Seek the trust and confidence of the client.

#### **Knowledge, understanding and skills**

This will depend upon a range of factors, including:

- whether the client is known to the solicitor or representative
- whether they have been arrested before
- whether they have any particular vulnerability of needs
- the seriousness of the client's offence(s).

Appropriate actions may include:

- Informing the client of the solicitor or representative's role
- Confirming that the client is covered by legal aid
- Confirming that the consultation is private and confidential, and that the solicitor or representative will not disclose to the police, or any other person any information provided by the client without their consent
- Ascertaining whether the client has any immediate preoccupations or specific needs, for example, medication, food, concern about children or other dependants, etc.

The solicitor or representative should understand that people from some groups (particularly young ethnic minority clients) may be suspicious of lawyers paid by the state and may require further reassurance on the issues listed above.

### **Assessment criteria C**

Assess the client's fitness for interview and whether they have any particular needs, and deal with them appropriately.

#### **Knowledge, understanding and skills**

Having regard to any information provided by the custody officer, investigating officer and/or a third party, the solicitor or representative should, as appropriate, explore the client's fitness for interview and/or any vulnerabilities.

Fitness for interview is governed by Code C para 12.3.

Particular needs may arise from, or be associated with:

- Age
- Mental disorder or other mental vulnerability
- Inability to speak or understand English
- Immigration status.

If relevant, the solicitor or representative should consider what actions are appropriate. For example, seeking a medical examination of the client, seeking to ensure the attendance of an appropriate adult or interpreter, or seeking the delay of any police interview.

### **Assessment criteria D**

Ascertain whether the client has any particular concerns arising from their arrest and detention, or attendance as a volunteer, and deal with them appropriately.



**Knowledge, understanding and skills**

The client should be asked about the circumstances of their arrest and detention, and whether they have any complaints about the way in which they were dealt with, including any complaints about inappropriate or unlawful conduct by the police.

If the client complains of police mistreatment, the solicitor or representative should consider what advice they should give to the client. For example, whether the matter should be raised with the custody officer, whether the matter should be raised during the course of the police interview, and/or whether a formal complaint should be lodged.

**Assessment outcome 2: Provide appropriate information, take instructions and give advice.****Assessment criteria A**

Inform the client about the suspected offence(s).

**Knowledge, understanding and skills**

The solicitor or representative should inform the client of:

- The information they have obtained from the police about the suspected offence(s), including any evidence the police say they have
- What the prosecution would have to prove if the client is prosecuted
- The strengths and weaknesses of the police case, so far as it is known
- What other evidence the police may seek to obtain.

**Assessment criteria B**

Take instructions from the client concerning the suspected offence(s) and any relevant circumstances.

**Knowledge, understanding and skills**

The solicitor or representative should, having regard to the information obtained from the police and the matters that have to be provided in relation to the suspected offence(s):

- Ask the client to provide an account of the circumstances of their arrest or attendance as a volunteer
- Ask the client to provide an account of relevant facts and circumstances concerning the suspected offence(s)



- Explore any relevant matters with the client in greater detail as necessary
- Ascertain whether the client has made any admissions, or made any significant statement, to the police
- Obtain, as necessary, relevant information concerning the client's background and circumstances.

#### **Assessment criteria C**

- Consider any relevant ethical issues and determine the appropriate course of action.

#### **Knowledge, understanding and skills**

The solicitor or representative should consider whether any ethical issues arise from the instructions obtained and advise accordingly.

Ethical issues that may arise include whether there is a conflict of interests (for example, in relation to another client), or whether the client intends to lie to the police about their identity or facts relating to the suspected offence(s).

#### **Assessment criteria D**

Provide reasoned and considered advice to the client regarding their legal position and the strategy to be adopted in the police interview(s).

#### **Knowledge, understanding and skills**

Taking into account the information obtained from the police and the instructions obtained from the client, the solicitor or representative should advise the client, as relevant and appropriate, concerning:

- The strength of the police case, taking into account relevant evidential factors
- Whether the client has a defence
- Their right to silence
- Any advantages of admitting guilt, including diversion from prosecution and sentence discount
- Whether the client should answer questions, remain silent or submit a prepared statement.

#### **Assessment criteria E**

Explain to the client the procedure to be adopted in the police interview, and their role.

#### **Knowledge, understanding and skills**



The solicitor or representative should explain to the client:

- How the police interview will be conducted, including who is likely to be present, what tactics may be adopted by the police, how long it may last, how it will be recorded
- The significance of the police interview, and how it may be used
- How the client should conduct themselves in the interview
- The role of the solicitor or representative, the circumstances in which they will intervene, and the client's right to legal advice in private during the interview.

## **Unit 6. Advising and assisting during the interview**

### **Assessment outcome 1: Seek to ensure the proper conduct of the interview.**

#### **Assessment criteria A**

Consider whether it is appropriate to make an opening statement.

#### **Knowledge, understanding and skills**

The circumstances in which it may be appropriate to make an opening statement.

The nature and extent of an opening statement by the solicitor or representative will depend upon a range of factors, including:

- whether the client has previously been interviewed in connection with the current matter, or on a previous occasion
- whether the interviewing officer is known to the solicitor or representative
- whether an appropriate adult or interpreter is present, and
- whether the client has any vulnerability.

An opening statement may include some or all of the following:

- an explanation of the lawyer's role
- an indication of what information the police have given to the solicitor or representative in advance of the interview
- an indication of what the police investigator has told the solicitor or representative as regards the purpose of the interview
- whether the client intends to answer questions and/or whether a prepared statement is being submitted
- the circumstances in which the solicitor or representative may intervene.

The solicitor/representative should be aware of the risk of inadvertently waiving privilege (*R v Bowden*). And should avoid any reference to the

reasons for their advice in the opening statement.

### **Assessment criteria B**

Seek to ensure that the police interviewer complies with the regulatory requirements governing police interviews.

#### **Knowledge, understanding and skills**

The solicitor or representative should know and understand how the PACE 1984 and the Codes of Practice regulate the matters listed below, and seek to ensure that they are complied with:

- recording of the interview
- stating and (where appropriate) explaining the caution
- persons who may be, or who should be, present at the interview
- the physical conditions of the interview room
- the circumstances in which an interview should be suspended, for example, to ensure regular breaks, or a rest period.

Appropriate action should be taken where the provisions are not complied with.

### **Assessment criteria C**

Know and understand the circumstances in which a police interview should stop.

#### **Knowledge, understanding and skills**

The solicitor or representative should know and understand the circumstances in which an interview should cease and/or when a decision regarding charge should be made.

Interviewing must cease when:

- the officer in charge of the investigation is satisfied that all the questions the officer considers relevant to obtaining accurate and reliable information about the client offence have been put to the client
- the officer in charge of the investigation has taken account of any other available evidence
- the officer in charge of the investigation, or in the case of a detained client, the custody officer, reasonably believes there is sufficient evidence to provide a realistic prospect of conviction for the offence in respect of which the client is being interviewed (Code C para. 11.6).

## **Assessment outcome 2: Advise the client during the interview.**

### **Assessment criteria A**

Demonstrate a practical understanding of their role and objectives in a police interview.

#### **Knowledge, understanding and skills**

The objectives of the solicitor or representative in a police interview are:

- to ensure that the police act fairly at all times and observe the requirements of the PACE 1984 and the Codes of Practice
- to ensure that the client does their best in interview, whether or not they are answering questions
- to protect the client from unnecessary or inappropriate pressure and distress and, in particular, to protect a vulnerable client
- to ensure that an accurate account is kept of the interview, and that they keep their own record.

### **Assessment criteria B**

Demonstrate a practical understanding of their role and objectives in a police interview. Advise or assist the client without stopping the interview, when appropriate.

#### **Knowledge, understanding and skills**

The solicitor or representative may advise or assist the client without stopping the interview, for example:

- to remind them of a decision that they previously took, for example, not to answer questions
- to assist them to understand a question that has been put to them
- to ensure that they have answered a question clearly and, in the way, intended.

### **Assessment criteria C**

Stop the interview in order to give the client legal advice in private, when appropriate.

#### **Knowledge, understanding and skills**

A client is entitled to legal advice in private at any time (PACE 1984 s58(1)). The solicitor or representative may advise that the interview be stopped or suspended, in a range of circumstances, including:



- if the client is becoming distressed or confused
- if the client is having difficulty in continuing with a strategy previously determined, for example, they begin to answer questions having previously decided that they would not answer questions
- If the police interviewer is acting inappropriately or unlawfully.

#### **Assessment criteria D**

Recognise and respond appropriately to police conduct that requires intervention by the solicitor or representative.

##### **Knowledge, understanding and skills**

The solicitor or representative should know and be able to recognise the circumstances in which they should intervene in a police interview, and be able to respond appropriately, particularly in respect of:

- breach of relevant provisions of PACE or the Codes of Practice
- improper or unfair interview techniques or questions
- attempts to undermine a decision by the client to exercise their right to silence
- attempts to undermine or exclude the solicitor or representative.

#### **Assessment criteria E**

Make an appropriate record of the interview.

##### **Knowledge, understanding and skills**

The solicitor or representative should make a sufficient record of the interview to enable them to:

- correct the interviewing officer if he or she attributes a statement to the client which he or she did not make
- to ensure that the client has said all that they wish to say
- to provide advice after the interview and, if relevant, before a subsequent interview
- to support representations regarding charge and/or bail.

## **Unit 7. Advising and assisting a vulnerable client or a client with particular needs**

**Assessment outcome 1: Identify a vulnerable client or a client with particular needs and ensure appropriate action is taken to meet the needs of the client.**

#### **Assessment criteria A**



- clients with disabilities (physical, mental or sensory)
- women
- children
- older people
- those with alcohol or drug dependency issues
- those whose sexual orientation is not heterosexual
- transgender people
- those who have been trafficked or have experienced sexual exploitation or modern slavery
- those who through poverty or any other reason are socially or economically marginalised.
- those with a mental disorder or mental vulnerability
- neurodivergent people including those with Autism Spectrum Disorder (ASD), Attention Deficit Hyperactivity Disorder (ADHD), dyslexia, etc.

The solicitor or representative should have a practical knowledge and understanding of the provisions of the PACE 1984 and the Codes of Practice concerning:

- Young people
- Clients who are mentally disordered or mentally vulnerable
- Clients who cannot speak or do not understand English
- Clients who are blind, seriously visually impaired, deaf, or who are unable to speak, or who have difficulty communicating because of a speech impediment.

In particular, the solicitor or representative should know and understand the provisions regarding appropriate adults and interpreters.

The solicitor or representative should have a working knowledge of appropriate strategies for identifying vulnerability or particular needs where these are not obvious.

### **Assessment criteria B**

Seek to ensure that the police take appropriate action in response to the identification of a vulnerability or particular need.

#### **Knowledge, understanding and skills**

Where a client is identified as being vulnerable or as having a particular need, the solicitor or representative should check that the police have taken the appropriate action, for example, have contacted an appropriate adult or an interpreter.

If the police have not taken the necessary action, the solicitor or representative should consider what action they should take, and act accordingly.

If an appropriate adult has been called in, the solicitor or representative should check whether they are suitable to act, by reference to Code C para 1.7 and Note for Guidance 1B. And consider whether they should be present during the consultation with the client.

If an interpreter has been called in the solicitor or representative should seek to ensure that they are appropriately qualified. And consider whether there should be a separate interpreter for the consultation with the client.

### **Assessment criteria C**

Advise the client about the role of an appropriate adult or an interpreter (as relevant).

#### **Knowledge, understanding and skills**

The solicitor or representative should advise the client about the role of the appropriate adult or interpreter, and about confidentiality.

### **Assessment outcome 2: Work effectively with an appropriate adult or interpreter.**

#### **Assessment criteria A**

Seek to ensure that the appropriate adult or interpreter understands their role.

#### **Knowledge, understanding and skills**

The role of an appropriate adult in a police interview is not simply to act as an observer, but to:

- Advise the person being interviewed
- Observe whether the interview is being conducted properly and fairly
- Facilitate communication with the person being interviewed (Code C para 11.17).

The role of an interpreter is to assist communication between the client, the appropriate adult (if relevant), the police interviewer. And the solicitor or representative. They should interpret accurately and impartially.

#### **Assessment criteria B**

Seek to ensure that the appropriate adult or interpreter understands the importance of keeping information confidential.



### **Knowledge, understanding and skills**

Case-law provides that the presence of an appropriate adult or an interpreter in a lawyer/client consultation does not destroy legal professional privilege.

The solicitor or representative should seek to ensure that the appropriate adult or interpreter understands that they should keep information confidential. And, if appropriate, seek an undertaking to this effect from them.

## **Unit 8. Advising and assisting a client in respect of identification procedures**

### **Assessment outcome 1: Advise the client on identification procedures.**

#### **Assessment criteria A**

Request a copy of the description of the client as first given by an eyewitness, and respond appropriately in the event of refusal.

#### **Knowledge, understanding and skills**

The police must make a record of the description of the client as first given by an eyewitness, a copy of which must be given to the client or their solicitor before any identification procedure is conducted (Code D, para. 3.1).

The solicitor or representative should ask for a copy of such a description. In the event of refusal, the solicitor or representative should refer the police to the relevant provisions of Code D. And, if necessary, refer the matter to a more senior officer.

#### **Assessment criteria B**

Seek information about whether any eyewitness has been shown photographs or other visual images prior to any identification procedure.

#### **Knowledge, understanding and skills**

If the identity of a client is known and they are available to take part in an identification procedure, an eyewitness must not be shown photographs or other visual images.

If a client's identity is now known, an eyewitness can be shown photographs or other visual images, subject to certain limitations regulatory procedures (Code D, para 3.3, and Annex E).



The solicitor or representative should seek to discover whether an eyewitness has been shown photographs or other visual images and, if so, assess whether this complies with the provisions of Code D.

The solicitor should record information obtained, and any representations made.

### **Assessment criteria C**

Advise the client on the advantages and disadvantages of the various identification procedures, and whether to co-operate with any identification procedure proposed by the police.

#### **Knowledge, understanding and skills**

The solicitor or representative should:

- have a practical understanding of the various forms of identification procedure
- be able to analyse the advantages and disadvantages to their client of any identification procedure proposed by the police, and convey that analysis to their client in a form that they can understand
- advise the client whether to co-operate with an identification procedure proposed by the police, taking into account the consequences if they do not co-operate.

### **Assessment criteria D**

If identification is an issue and the police are not proposing to conduct an identification procedure, advise the client on whether to request an identification procedure.

#### **Knowledge, understanding and skills**

The solicitor or representative should:

- have a practical understanding of the provisions of Code D concerning when an identification procedure must be held, and
- be able to formulate advice to the client as to whether to request an identification procedure is required
- if relevant, make appropriate representations to the police, keeping a record of representations made and the response.

## **Assessment outcome 2: Seek to ensure that identification procedures are fairly conducted.**

### **Assessment criteria A**

Consider whether the procedures proposed or adopted by the police comply with the relevant provisions of Code D, and take appropriate action if they do not.

**Knowledge, understanding and skills**

The appropriate procedures depend upon the form of identification procedure conducted, and the solicitor or representative should have a practical knowledge of them.

The solicitor or representative should seek information from the police upon how the procedure is to be conducted, consider whether this complies with the relevant provisions of Code D, and make relevant representations to the police in order to safeguard the fairness of the procedure.

A record should be made of any representations made, and the response.

**Assessment criteria B**

Advise the client on their participation in the identification procedure to be conducted.

**Knowledge, understanding and skills**

The advice will depend upon the form of identification procedure to be conducted. But should seek to ensure that the client conducts him or herself in a way that is in his or her best interests.

**Assessment criteria C**

Maintain an accurate written record of the identification procedure.

**Knowledge, understanding and skills**

If the solicitor or representative is present at the identification procedure, they should make an accurate, contemporaneous record of the process. This includes a record of any representations made and the response to such representations.

## **Unit 9. Advising and assisting a client after the interview or identification procedure**

**Assessment outcome 1: Seek to ensure that improper questioning does not take place.**

**Assessment criteria A**

Where relevant make representations to the police that the client should be charged or released without further questioning.

Where relevant, make representations to the police that the client should be charged or released without further questioning.

**Knowledge, understanding and skills**

The solicitor or representative should know and understand the circumstances in which a decision regarding charge should be made.

The decision regarding charge is governed by the PACE 1984, s. 37(7). See also the 'Director's Guidance on Charging', and the full code and threshold tests set out in the 'Code for Crown Prosecutors'.

If the solicitor or representative concludes that it is in the client's interests for a charge decision to be made, they should consider what action they should take, and make representations accordingly.

**Assessment criteria B**

Seek to ensure that the client is not questioned further in the representative's absence.

**Knowledge, understanding and skills**

If a decision regarding charge has not yet been made, and the police investigation is continuing, the solicitor or representative should ask for the custody record to be endorsed to the effect that they are to be contacted in advance of any further interview.

If a decision to charge has been made, a client cannot be further interviewed in respect of the relevant offence other than in circumstances set out in Code C, para. 16.5. The solicitor or representative should ask for the custody record to be endorsed to the effect that they are to be contacted in advance of any such interview.

In either event, the client should be advised of their continuing right of access to a solicitor, and that if the police propose to interview them, they should ask for the solicitor or representative to be contacted before any such interview is conducted.

**Assessment outcome 2: Make appropriate representations regarding charge and release.**

**Assessment criteria A**

Make appropriate representations regarding the charge decision.

**Knowledge, understanding and skills**

The solicitor or representative should have a practical knowledge of relevant law and procedure, and be able to apply such knowledge to the facts, regarding:

- whether the conditions for charging the client with a criminal offence(s) are satisfied and, if so, what charge(s) are warranted by the facts, or
- whether the conditions for an out-of-court disposal are satisfied and, if so, what disposals are relevant, or
- whether a decision to take no further action is appropriate.

Having provided advice to the client, and having taken instructions, the solicitor or representative should consider what representations, if any, he or she should make, and make such representations.

**Assessment criteria B**

Make appropriate representations regarding release, whether on bail or otherwise.

**Knowledge, understanding and skills**

If a client (who has been arrested and detained) is not charged, but investigations are continuing, the police have the power to release them with, or without, bail.

If a client is charged, they must be released pending the first court appearance, unless one or more of the conditions in the PACE 1984, s.38, are satisfied.

The solicitor or representative should have a practical knowledge of the relevant provisions in the PACE 1984 and be able to apply them to the facts.

Having provided advice to the client, and having taken instructions, the solicitor or representative should consider what representations, if any, he or she should make, and make such representations.

**Assessment outcome 3: Advise the client.****Assessment criteria A**

Explain the decisions regarding charge and release to the client.

**Knowledge, understanding and skills**



The solicitor or representative should provide an explanation, in terms that the client can understand, of:

- if the client has been charged, the implications of that charge including, if detained pending the first court appearance, the likely period of detention
- if the client is, or is to be made, the subject of an out-of-court disposal, the implications of that disposal
- if the client is released, without or on bail, the implications of that release.

#### **Assessment criteria B**

Explain the likely course of events following the decision regarding charge and/or release.

#### **Knowledge, understanding and skills**

The solicitor or representative should provide an explanation, in terms that the client can understand, of the likely course of events after the consultation with the client has ended.

#### **Assessment criteria C**

If the client has been charged, consider with the client whether and how they will be legally represented when they appear in court.

#### **Knowledge, understanding and skills**

The solicitor or representative should explain to the client their right to be represented, and to legal aid (if appropriate), in respect of the court proceedings. And should take instructions as to whether the client wishes them, or their firm, to act for them.