



LPC BUDDY

Criminal Litigation
2023 / 24



THE DEFINITIVE,
DISTINCTION QUALITY
STUDY GUIDE FOR THE LPC

CUT DOWN YOUR READING.
EASE YOUR EXAM STRESS.
GET THE GRADE YOU NEED.



Preview file only.

Features available in the full version of LPC Buddy, such as copying, pasting, and printing, have been disabled



Criminal Litigation

1. Role of the Solicitor at the Police Station	
1. Procedure from Arrest to Charge	p.1-9
2. Alternatives to Charging	p.10-11
3. Role of the Solicitor When Attending the Police Station	p.12-17
4. Considerations When Reviewing the Custody Record	p.18-21
5. Responses to Interview Questions	p.22-24
6. Inferences from Silence	p.25-28
7. Inferences from Silence Flow Charts	p.29-31
2. Case Analysis, Allocation, Bail	
1. Case Analysis Exam Answer Structure	p.32-36
2. Allocation	p.37-43
3. Bail in the Magistrates' Court	p.44-51
4. Legal Aid Funding	p.52-55
5. Form CRM14 - Page 6	p.56
3. Admissibility of Character and Confession Evidence	
1. Admissibility of Previous Convictions	p.57-64
2. Character Evidence Flowcharts	p.65-67
3. Admissibility of Previous Convictions Checklist	p.68-70
4. Admissibility of Confessions	p.71-75
5. Admissibility of Confessions Flowchart	p.76
6. PACE Code C	p.77-80
7. Pace Code C, Para 6	p.81-87
8. Pace Code C, Paras 8 - 9	p.88-93
9. Pace Code C, Paras 11 - 12	p.94-102
10. Pace Code C, Annex B, Paras 1 - 7	p.103
11. Pace Code C, Annex G - H	p.104-105
4. Sentencing, Hearsay, Pleas of Mitigation	
1. Sentencing	p.106-115
2. Ancillary Orders	p.116-118
3. Hearsay Evidence	p.119-125
4. Drafting a Hearsay Notice	p.126-127
5. Exemplar Hearsay Notice	p.128-129
6. Drafting a Notice to Introduce Evidence of a Defendant's Bad Character	p.130-134
7. Exemplar Notice to Introduce Character Evidence	p.135-136
8. Plea in Mitigation - Preparation and Structure	p.137-142
9. Plea in Mitigation - Drafting Notes	p.143-146
5. Professional Conduct	
1. Criminal Litigation Conduct Scenarios	p.147-151

Colour Coding Guide	<ul style="list-style-type: none">❖ Blue Text – Reference to statutes and case law.❖ Green Text – Reference to textbook¹ paragraphs, workshop tasks² and other notes in LPC Buddy.❖ Orange Text – References to the Criminal Procedure Rules.❖ Red Text – Court Forms.❖ Purple Text – Reference to Professional Conduct Rules or Principles.
----------------------------	---

www.lpcbuddy.com
support@lpcbuddy.com



¹ Textbook references are to the CLP Legal Practice Guides by CLP Publishing.

² References to Workshop tasks are to University of Law workshop tasks (which may be adopted by other LPC institutions). The content and structure of Workshops is subject to change at short notice and so task references should be treated as a general guide only.

1. Role of the Solicitor at the Police Station



1. Procedure from Arrest to Charge	1-9
2. Alternatives to Charging	10-11
3. Role of the Solicitor When Attending the Police Station	12-17
4. Considerations When Reviewing the Custody Record	18-21
5. Responses to Interview Questions	22-24
6. Inferences from Silence	25-28
7. Inferences from Silence Flow Charts	29-31

Procedure from Arrest to Charge

❖ [Criminal Litigation; Chapter 3](#)

Overview	<ul style="list-style-type: none"> ❖ An individual who has been arrested and detained at a police station is entitled to free legal advice, and to be represented by a solicitor (s58, the Police and Criminal Evidence Act 1984 (PACE 1984)). ❖ Where the individual exercises their right to legal advice, the solicitor’s role is to protect and advance their legal rights (PACE Code C Guidance Notes, para 6D). In doing so, the solicitor will attend the police station to advise the client and accompany them in an interview. ❖ The solicitor must be aware of the procedure the police <i>should</i> have gone through when arresting the suspect and authorising their detention:
-----------------	---

Suspect is Arrested			
<p>The suspect is taken to the police station.</p> <p><u>Criminal Litigation; 3.2</u></p>	<ul style="list-style-type: none"> ❖ The suspect should be taken to the police station <i>“as soon as is practicable after the arrest”</i> (s30(1A)¹). ❖ They should then be brought before the custody officer <i>“as soon as practicable”</i> on arrival at the police station (Para 2.1A, PACE Code C). 		
<p>The Custody Officer</p>	<ul style="list-style-type: none"> ❖ The custody officer is responsible for: <ul style="list-style-type: none"> ➢ Authorising the detention of the suspect, and ➢ Supervising the suspect’s welfare whilst in police custody. ❖ As part of their role, they must maintain: <ul style="list-style-type: none"> ➢ A custody record: this records key information such as the suspect’s personal details; details of the offence and why the suspect was detained; and the date and time of arrest and detention. ➢ A detention log: this is a record of all of the significant events that occur whilst the suspect is in custody. 		
<p>The suspect is informed of their rights.</p>	<ul style="list-style-type: none"> ❖ The custody officer must inform the suspect about his ongoing rights, namely: <table border="1" style="width: 100%; margin-top: 10px;"> <tr> <td style="background-color: #e0e0e0; vertical-align: top;"> <p>Right to have someone informed of the arrest.</p> <p>s56(1)</p> </td> <td> <ul style="list-style-type: none"> ❖ The suspect is entitled, on request, to have one person told, as soon as practicable, that they have been arrested and are being detained. ❖ The right can be delayed up to a maximum of 36 hours by an officer of at least the rank of inspector, if: <ul style="list-style-type: none"> ➢ The suspect has been detained for an indictable offence (i.e., an offence that is tried by jury; so a </td> </tr> </table> 	<p>Right to have someone informed of the arrest.</p> <p>s56(1)</p>	<ul style="list-style-type: none"> ❖ The suspect is entitled, on request, to have one person told, as soon as practicable, that they have been arrested and are being detained. ❖ The right can be delayed up to a maximum of 36 hours by an officer of at least the rank of inspector, if: <ul style="list-style-type: none"> ➢ The suspect has been detained for an indictable offence (i.e., an offence that is tried by jury; so a
<p>Right to have someone informed of the arrest.</p> <p>s56(1)</p>	<ul style="list-style-type: none"> ❖ The suspect is entitled, on request, to have one person told, as soon as practicable, that they have been arrested and are being detained. ❖ The right can be delayed up to a maximum of 36 hours by an officer of at least the rank of inspector, if: <ul style="list-style-type: none"> ➢ The suspect has been detained for an indictable offence (i.e., an offence that is tried by jury; so a 		

¹ All references are to [the Police and Criminal Evidence Act 1984](#) unless otherwise stated.

		<p><u>Criminal Litigation</u>, <u>3.4.1</u></p>	<p>serious offence) in the Crown Court) (s56(2)(a) and (b)); and</p> <ul style="list-style-type: none"> ➤ There are reasonable grounds to believe that telling the named person of the arrest will: <ul style="list-style-type: none"> ▪ Lead to interference with or harm to evidence connected with an indictable offence, or interference with or physical injury to other persons; ▪ Lead to the alerting of other persons suspected of an offence but not yet arrested; or ▪ Hinder the recovery of any property obtained as a result of such an offence (s56(5)).
		<p><u>Right to legal advice</u> s58(1)</p>	<ul style="list-style-type: none"> ❖ The suspect has a right to receive free and independent legal advice on request (s58(1)). ❖ The right can be delayed up to a maximum of 36 hours. ❖ The circumstances in which the right can be delayed are the same as those for delaying the right to inform another of their arrest above, save for a delay in exercising a right to legal advice must be authorised by a superintendent or above.
		<p><u>Right to consult the Codes of Practice (i.e., PACE)</u></p>	<ul style="list-style-type: none"> ❖ The suspect has the right to consult the PACE codes of practice (which regulate police powers and set out the suspect’s rights).
		<p><u>Right to be informed about the offence, and why they have been arrested and detained.</u></p>	<ul style="list-style-type: none"> ❖ PACE Code C, Para 11.1A: <i>“Before a person is interviewed, they and, if they are represented, their solicitor must be given sufficient information to enable them to understand the nature of any such offence, and why they are suspected of committing it”.</i>
	<p><u>The suspect is searched.</u></p>	<ul style="list-style-type: none"> ❖ The custody officer will then search the suspect. ❖ They: 	

		<ul style="list-style-type: none"> ➤ Must make a record of any items of property on the suspect’s person (s54(1) and (2)). ➤ May seize and retain property (s54(3)) if the custody officer has reasonable grounds for believing: <ul style="list-style-type: none"> ▪ It may be evidence; or ▪ That the suspect may use it to: <ul style="list-style-type: none"> • Cause injury; • Cause damage to property; • Interfere with evidence; or • Assist them to escape • PACE Code C, para 4.2 				
<p>The suspect is charged or detained.</p> <p>Criminal Litigation, 3.3</p>		<ul style="list-style-type: none"> ❖ The custody officer must determine whether there is already “sufficient evidence” to charge the suspect with the offence for which they have been arrested (s37(1)). ❖ They will ask the investigating officer for details of: <ul style="list-style-type: none"> ➤ The evidence against the suspect; and ➤ What steps the officer proposes to take if further detention is authorised. ➤ This will usually be done in the presence of the suspect. The custody officer should not put any questions to the suspect (Code C, para 3.4), but should note any comments the suspect makes in relation to the investigating officer’s account (PACE Code C, para 3.4). ❖ If there is sufficient evidence, the custody officer will charge the suspect. ❖ If there is not sufficient evidence, the custody officer may authorise the suspect’s detention without charge if the following grounds are made out. <table border="1" data-bbox="304 1323 1485 2101"> <tr> <td data-bbox="304 1323 467 1765"> <p>Detention Without Charge</p> </td> <td data-bbox="467 1323 1485 1765"> <ul style="list-style-type: none"> ❖ The custody officer may authorise that the suspect be kept in police detention where either: <ul style="list-style-type: none"> ➤ They have reasonable grounds for believing that detention is necessary to secure or preserve evidence relating to an offence for which he is under arrest; or ➤ It is necessary to obtain such evidence by questioning (s37(2)). ❖ The suspect must be released immediately if either ground ceases to apply (s39). </td> </tr> <tr> <td data-bbox="304 1765 467 2101"> <p>The suspect’s rights when detained.</p> </td> <td data-bbox="467 1765 1485 2101"> <ul style="list-style-type: none"> ❖ Where the suspect is detained, they have rights to: <ul style="list-style-type: none"> ➤ Certain conditions of detention: <ul style="list-style-type: none"> ▪ (E.g., they are entitled to a cell that is adequately heated, cleaned and ventilated, and adequately lit (Code C, para 8.2). </td> </tr> </table>	<p>Detention Without Charge</p>	<ul style="list-style-type: none"> ❖ The custody officer may authorise that the suspect be kept in police detention where either: <ul style="list-style-type: none"> ➤ They have reasonable grounds for believing that detention is necessary to secure or preserve evidence relating to an offence for which he is under arrest; or ➤ It is necessary to obtain such evidence by questioning (s37(2)). ❖ The suspect must be released immediately if either ground ceases to apply (s39). 	<p>The suspect’s rights when detained.</p>	<ul style="list-style-type: none"> ❖ Where the suspect is detained, they have rights to: <ul style="list-style-type: none"> ➤ Certain conditions of detention: <ul style="list-style-type: none"> ▪ (E.g., they are entitled to a cell that is adequately heated, cleaned and ventilated, and adequately lit (Code C, para 8.2).
<p>Detention Without Charge</p>	<ul style="list-style-type: none"> ❖ The custody officer may authorise that the suspect be kept in police detention where either: <ul style="list-style-type: none"> ➤ They have reasonable grounds for believing that detention is necessary to secure or preserve evidence relating to an offence for which he is under arrest; or ➤ It is necessary to obtain such evidence by questioning (s37(2)). ❖ The suspect must be released immediately if either ground ceases to apply (s39). 					
<p>The suspect’s rights when detained.</p>	<ul style="list-style-type: none"> ❖ Where the suspect is detained, they have rights to: <ul style="list-style-type: none"> ➤ Certain conditions of detention: <ul style="list-style-type: none"> ▪ (E.g., they are entitled to a cell that is adequately heated, cleaned and ventilated, and adequately lit (Code C, para 8.2). 					

			<ul style="list-style-type: none"> ▪ See notes on Considerations When Reviewing the Custody Record/Detention Log. ➤ Not to be kept for longer than is permissible under s41-43 PACE 1984. <ul style="list-style-type: none"> ▪ In overview, a suspect is entitled to be detained for an initial period of 24 hours. ▪ Longer time periods require an extension to be authorised by, initially, a superintendent or above, and subsequently the Magistrates' Court. ▪ See notes on Considerations When Reviewing the Custody Record/Detention Log.
<p>The suspect is interviewed.</p> <p>Criminal Litigation, 3.5</p>	<p>❖ Once the custody officer has authorised the suspect's detention, the investigating officer will further the investigation, normally by interviewing the suspect.</p> <p>❖ Interviews conducted at the police station must comply with the requirements of PACE Codes C and E; a failure to comply with the Codes may result, at any subsequent trial, in any admission or confession made by the defendant being inadmissible.</p>	<p>Should the suspect be interviewed?</p> <p>Criminal Litigation, 3.5.2.2; 3.5.2.5</p>	<p>❖ A suspect should not generally be interviewed if:</p> <ul style="list-style-type: none"> ➤ PACE Code C, Para 11.18(b): They appear unable to: <ul style="list-style-type: none"> ▪ Appreciate the significance of questions or their answers; or ▪ Understand what is happening because of the effects of drink, drugs, or any illness, ailment or condition. ➤ PACE Code C, para 6.6: They have not received legal advice. <ul style="list-style-type: none"> ▪ However, this is subject to five exceptions, where: <ul style="list-style-type: none"> • The police delay the suspect receiving legal advice under s58(1) (as outlined above); or • An officer of superintendent or above believes the delay would lead to issues set out in Code C, para 6.6(b)(i); (such as interference or harm to evidence, or other people); or

		<ul style="list-style-type: none"> • The solicitor has agreed to attend but awaiting their arrival would “cause unreasonable delay” to the investigation (Code C, para 6.6(b)(ii)); or • The solicitor cannot be contacted or has declined to attend, and the suspect has declined a duty solicitor (Code C, para 6.6(c)); or • The suspect asks for legal advice but changes their mind. In such a case, the interview will be subject to certain prerequisites (e.g., the suspect should be reminded of their right to legal advice at the beginning of the interview). 								
	<p>Caution</p> <p>Criminal Litigation, 3.5.2.3</p>	<ul style="list-style-type: none"> ❖ At the start of the interview, the officer will caution the suspect by stating <i>“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”</i> (PACE Code C, para 10.4). ❖ The caution reflects the fact that the suspect: <ul style="list-style-type: none"> ➢ Has a right to remain silent, ➢ However, if a defendant remains silent, the court will be, in certain circumstances, permitted to draw a negative conclusion (an “adverse inference”) from their silence (see notes on Inferences from Silence). 								
	<p>Conduct of the Interview</p> <p>Criminal Litigation, 3.5.2.4</p>	<ul style="list-style-type: none"> ❖ When conducting the interview, the officer must: <table border="1" data-bbox="517 1285 1465 2047"> <tr> <td data-bbox="517 1285 753 1406"> <p>Not Use Oppression</p> </td> <td data-bbox="753 1285 1465 1406"> <ul style="list-style-type: none"> ❖ The interviewer may not <i>“try to obtain answers or elicit a statement by the use of oppression”</i> (PACE Code C, Para 11.5). </td> </tr> <tr> <td data-bbox="517 1406 753 1608"> <p>Not Offer Inducements</p> </td> <td data-bbox="753 1406 1465 1608"> <ul style="list-style-type: none"> ❖ The interviewer may not <i>“indicate, except to answer a direct question, what action will be taken by the police if the person being questioned answers questions, makes a statement or refuses to do either”</i> (PACE Code C, Para 11.5). </td> </tr> <tr> <td data-bbox="517 1608 753 1930"> <p>End the Interview when “All the Questions they Consider Relevant” have been asked</p> </td> <td data-bbox="753 1608 1465 1930"></td> </tr> <tr> <td data-bbox="517 1930 753 2047"> <p>Give the suspect rest periods and</p> </td> <td data-bbox="753 1930 1465 2047"></td> </tr> </table> 	<p>Not Use Oppression</p>	<ul style="list-style-type: none"> ❖ The interviewer may not <i>“try to obtain answers or elicit a statement by the use of oppression”</i> (PACE Code C, Para 11.5). 	<p>Not Offer Inducements</p>	<ul style="list-style-type: none"> ❖ The interviewer may not <i>“indicate, except to answer a direct question, what action will be taken by the police if the person being questioned answers questions, makes a statement or refuses to do either”</i> (PACE Code C, Para 11.5). 	<p>End the Interview when “All the Questions they Consider Relevant” have been asked</p>		<p>Give the suspect rest periods and</p>	
<p>Not Use Oppression</p>	<ul style="list-style-type: none"> ❖ The interviewer may not <i>“try to obtain answers or elicit a statement by the use of oppression”</i> (PACE Code C, Para 11.5). 									
<p>Not Offer Inducements</p>	<ul style="list-style-type: none"> ❖ The interviewer may not <i>“indicate, except to answer a direct question, what action will be taken by the police if the person being questioned answers questions, makes a statement or refuses to do either”</i> (PACE Code C, Para 11.5). 									
<p>End the Interview when “All the Questions they Consider Relevant” have been asked</p>										
<p>Give the suspect rest periods and</p>										

<p>The suspect is released, or charged²</p> <p><i>Criminal Litigation; 3.6</i></p>	<p>Releasing the suspect.</p> <p><i>Criminal Litigation; 3.6.3</i></p>	<p>Who can grant bail?</p> <p>“Necessary and proportionate”.</p>	<p>suitable breaks.</p> <ul style="list-style-type: none"> ❖ When the time for the suspect’s detention is up, the police must decide to: <ul style="list-style-type: none"> ➤ Release the suspect without charge and without bail; or ➤ Release the suspect without charge but on bail whilst they make further enquiries; or ➤ Release the suspect without charge but on bail (or keep the suspect in police detention for the purpose of enabling the CPS to make a decision on charges); or ➤ Charge the suspect (or offer an alternative to charge (see notes on <i>Alternatives to Charging</i>)). ❖ If the suspect is to be released whilst further investigations are conducted, there is a presumption in favour of the suspect being released on bail (s45 Police, Crime, Sentencing and Courts Act 2022) rather than being released without bail. ❖ The suspect may be released on bail where: <ul style="list-style-type: none"> ➤ It is “necessary and proportionate” in all the circumstances; and ➤ A custody officer authorises the release, having considered any representations made by the suspect. <p>Bail may be granted by either:</p> <ul style="list-style-type: none"> ➤ A constable (under s30A(1) PACE 1984); this power will most often be exercised immediately after arrest and before the suspect arrives at the police station, known as “street bail”. It is designed to enable front-line officers to remain on patrol and give them flexibility; ➤ A custody officer, whilst further investigations are conducted (under s34(5) and s37(2) PACE 1984). <p>In either circumstance, conditions may be imposed (under either s30A(1), or s47ZZA).</p> <p>In determining whether releasing the person on bail is “necessary and proportionate”, the officer must have regard to:</p>
--	---	--	---

² [Workshop 11, Task 2, Question 3](#)

			<ul style="list-style-type: none"> ➤ Any <u>conditions of bail</u> which would be imposed; and ➤ The factors in s30A(1B) PACE 1984, which are: <ul style="list-style-type: none"> ▪ The need to secure that the person <u>surrenders to custody</u>; ▪ The need to <u>prevent offending by the person</u>; ▪ The need to <u>safeguard victims of crime and witnesses</u> (taking into account any vulnerabilities of any alleged victim or witness that the officer has identified); ▪ The need to <u>safeguard the person</u>, taking into account any <u>vulnerabilities</u> they have that the officer has identified; ▪ The need to <u>manage risks to the public</u>.
		<p><u>Length of Bail and Extensions</u></p>	<ul style="list-style-type: none"> ❖ The suspect will be bailed for a <u>maximum of three months</u>. ❖ Extensions to this period are available: <ul style="list-style-type: none"> ➤ <u>To up to six months</u>: if authorised by an officer of the rank of inspector or above. ➤ <u>To up to nine months</u>: if authorised by an officer of the rank of superintendent or above. ❖ Further extensions must be <u>sought from the magistrates’ court</u>. ❖ For an extension to be granted, on the day of the decision, the following <u>conditions</u> must be met (s47ZC, PACE 1984): <ul style="list-style-type: none"> ➤ There are reasonable grounds to suspect that the <u>suspect is guilty of the offence</u>; ➤ <u>Further investigation is needed</u> or further time for police decision to charge is required;

			<ul style="list-style-type: none"> ➤ The investigation or charging decision is being conducted <u>diligently and expeditiously</u>; and ➤ Release on bail is <u>necessary and proportionate</u>. 									
	<p><u>Charging the suspect.</u></p> <p><i>Criminal Litigation;</i> <u>3.6.4 - 3.6.5</u></p>	<ul style="list-style-type: none"> ❖ If the police believe that there is sufficient evidence to charge the suspect, they will <u>refer the case to the CPS</u> who will determine whether the suspect should be charged and, if so, with what offence (s37B PACE 1984). ❖ The CPS will <u>apply a two-part test</u> to determine whether or not the suspect should be charged. There must be: <ul style="list-style-type: none"> ➤ Sufficient evidence to provide a <u>“realistic prospect of conviction”</u>; and ➤ It must be in the <u>public interest to charge the suspect</u>. ❖ Alternatively, the CPS may recommend that the matter should be dealt with <u>other than by way of charge</u>. ❖ If the case has been referred to the CPS for a charging decision, the suspect will <u>normally be released on bail</u> under s47(3)(b) PACE 1984. ❖ If the suspect is ultimately charged, the custody officer has two options, to: <ul style="list-style-type: none"> ➤ <u>Keep the suspect in police custody</u> until they can be brought before a magistrates’ court; or ➤ <u>Release them on bail</u>, which may be <u>with conditions</u> (s38(1)). 										
<p><u>Bail after charge.</u></p> <p><i>Criminal Litigation,</i> <u>3.7</u></p>		<ul style="list-style-type: none"> ❖ A suspect who is charged <u>MUST be released on bail UNLESS</u> one of the conditions set out in s38(1)(a), PACE 1984 is satisfied: <table border="1" data-bbox="304 1480 1484 2083"> <tr> <td data-bbox="304 1480 539 1603"><u>Name and address.</u></td> <td data-bbox="539 1480 1484 1603">❖ The suspect’s <u>name or address cannot be ascertained</u>, or the custody officer has reasonable grounds for doubting whether a name or address provided is the suspect’s real name or address;</td> </tr> <tr> <td data-bbox="304 1603 539 1682"><u>Risk of failure to answer bail.</u></td> <td data-bbox="539 1603 1484 1682">❖ The custody officer has reasonable grounds for believing that the person arrested will <u>fail to appear in court to answer to bail</u>;</td> </tr> <tr> <td data-bbox="304 1682 539 1845"><u>Prevention of a further offence.</u></td> <td data-bbox="539 1682 1484 1845">❖ In the case of a person arrested for an <u>imprisonable offence</u>, the custody officer has reasonable grounds for believing that the detention of the person arrested is necessary to <u>prevent him from committing an offence</u>;</td> </tr> <tr> <td data-bbox="304 1845 539 2009"><u>Detention is necessary to obtain a sample.</u></td> <td data-bbox="539 1845 1484 2009">❖ In a case where a <u>sample may be taken</u> from the person... the custody officer has reasonable grounds for believing that the <u>detention of the person is necessary</u> to enable the sample to be taken from them;</td> </tr> <tr> <td data-bbox="304 2009 539 2083"><u>Prevention of injury or</u></td> <td data-bbox="539 2009 1484 2083">❖ In the case of a person arrested for an offence which is not an imprisonable offence, the custody officer has reasonable grounds</td> </tr> </table> 	<u>Name and address.</u>	❖ The suspect’s <u>name or address cannot be ascertained</u> , or the custody officer has reasonable grounds for doubting whether a name or address provided is the suspect’s real name or address;	<u>Risk of failure to answer bail.</u>	❖ The custody officer has reasonable grounds for believing that the person arrested will <u>fail to appear in court to answer to bail</u> ;	<u>Prevention of a further offence.</u>	❖ In the case of a person arrested for an <u>imprisonable offence</u> , the custody officer has reasonable grounds for believing that the detention of the person arrested is necessary to <u>prevent him from committing an offence</u> ;	<u>Detention is necessary to obtain a sample.</u>	❖ In a case where a <u>sample may be taken</u> from the person... the custody officer has reasonable grounds for believing that the <u>detention of the person is necessary</u> to enable the sample to be taken from them;	<u>Prevention of injury or</u>	❖ In the case of a person arrested for an offence which is not an imprisonable offence, the custody officer has reasonable grounds
<u>Name and address.</u>	❖ The suspect’s <u>name or address cannot be ascertained</u> , or the custody officer has reasonable grounds for doubting whether a name or address provided is the suspect’s real name or address;											
<u>Risk of failure to answer bail.</u>	❖ The custody officer has reasonable grounds for believing that the person arrested will <u>fail to appear in court to answer to bail</u> ;											
<u>Prevention of a further offence.</u>	❖ In the case of a person arrested for an <u>imprisonable offence</u> , the custody officer has reasonable grounds for believing that the detention of the person arrested is necessary to <u>prevent him from committing an offence</u> ;											
<u>Detention is necessary to obtain a sample.</u>	❖ In a case where a <u>sample may be taken</u> from the person... the custody officer has reasonable grounds for believing that the <u>detention of the person is necessary</u> to enable the sample to be taken from them;											
<u>Prevention of injury or</u>	❖ In the case of a person arrested for an offence which is not an imprisonable offence, the custody officer has reasonable grounds											

	<u>property damage.</u>	for believing that the detention of the person arrested is necessary to prevent him from causing physical injury to any other person or from causing loss of or damage to property ;
	<u>Interference with the administration of justice.</u>	❖ The custody officer has reasonable grounds for believing that the detention of the person arrested is necessary to prevent them from interfering with the administration of justice or with the investigation of offences or of a particular offence; or
	<u>Necessary for the suspect's own protection.</u>	❖ The custody officer has reasonable grounds for believing that the detention of the person arrested is necessary for his own protection.
	<u>Conditions on Bail</u>	❖ If the suspect is released on bail, this may be with conditions attached:
	<u>When can conditions be imposed?</u>	❖ Conditions may be imposed only if they are necessary for the following reasons: <ul style="list-style-type: none"> ➤ To prevent the suspect from failing to surrender to custody; ➤ To prevent the suspect from committing an offence whilst on bail; ➤ To prevent the suspect from interfering with witnesses or otherwise obstructing the course of justice. ➤ For the suspect's own protection.
	<u>What conditions might be imposed?</u>	❖ The suspect may be required: <ul style="list-style-type: none"> ➤ To reside at a particular address; ➤ Not to speak to or contact any witnesses; ➤ Not to enter a particular area or set of premises; or ➤ To observe a curfew at night between specified hours.

Alternatives to Charging

❖ [Criminal Litigation, 3.8](#)

Overview	❖ The police have a number of alternative options available to charging a suspect, even if there is sufficient evidence to bring a charge, as follows:		
Informal Warning Criminal Litigation, 3.8.2	<ul style="list-style-type: none"> ❖ The suspect may be given an informal warning about their future conduct. ❖ This will not appear on the defendant’s list of previous convictions. ❖ It is appropriate for minor public order offences. 		
Penalty Notice Criminal Litigation, 3.8.3	<ul style="list-style-type: none"> ❖ A penalty notice is a notice requiring the offender to pay a fine. ❖ It is used to dispose of minor offences without the need for the offender to go to court. ❖ There are two kinds: <ul style="list-style-type: none"> ➢ Fixed Penalty Notices: used for minor offences (e.g., speeding tickets). ➢ Penalty Notices for Disorder: used for anti-social behaviour. ❖ These may include an “education option”, where the offender has the option to pay for and complete an awareness course instead of paying the fine. 		
Simple Caution¹ Criminal Litigation, 3.8.4	<ul style="list-style-type: none"> ❖ A caution is a means of disposing of the offence without formal charge. ❖ There are two types of caution: <ul style="list-style-type: none"> ➢ Simple cautions; and ➢ Conditional cautions. ❖ A simple caution <i>does not</i> have any conditions attached (such as, for instance, a requirement to engage in a rehabilitation procedure) and, once given, does not require any further action by the recipient. ❖ They are available for <u>any offence</u> but are primarily intended for low-level, first-time offending. ❖ A simple caution cannot be used in relation to an indictable only offence, and certain either-way offences specified by the Secretary of State (s17(2)-(3) Criminal Justice and Courts Act 2015). <table border="1" style="width: 100%; margin-top: 10px;"> <tr> <td style="background-color: #e0e0e0;">When can a simple caution be given?</td> <td> <ul style="list-style-type: none"> ❖ A simple caution can be given where: <ul style="list-style-type: none"> ➢ The offender has admitted the offence; ➢ The offender is willing to accept the caution; ➢ There is sufficient evidence to provide a realistic prospect of a conviction if the offender were to be prosecuted; </td> </tr> </table>	When can a simple caution be given?	<ul style="list-style-type: none"> ❖ A simple caution can be given where: <ul style="list-style-type: none"> ➢ The offender has admitted the offence; ➢ The offender is willing to accept the caution; ➢ There is sufficient evidence to provide a realistic prospect of a conviction if the offender were to be prosecuted;
When can a simple caution be given?	<ul style="list-style-type: none"> ❖ A simple caution can be given where: <ul style="list-style-type: none"> ➢ The offender has admitted the offence; ➢ The offender is willing to accept the caution; ➢ There is sufficient evidence to provide a realistic prospect of a conviction if the offender were to be prosecuted; 		

¹ NB: The simple caution and conditional caution are due to be abolished and replaced with a “diversionary caution”, and “community caution” as a result of the [Police Crime Sentencing and Courts Act 2022](#). LPC Buddy 2023/24 is written as at 1 August 2023, at which time the relevant provisions of the 2022 Act were not in force.

		<ul style="list-style-type: none"> ➤ The offence is <u>not</u> one where a <u>prosecution is required in the public interest.</u> 	
<p><u>Conditional Caution</u></p> <p><i>Criminal Litigation, 3.8.5</i></p>	<ul style="list-style-type: none"> ❖ A conditional caution will have <u>one or more conditions attached</u> that the recipient will have to comply with (for example, they may have to fix damage to property, or attend a drug abuse treatment centre). ❖ The conditions imposed must have the effect of: <ul style="list-style-type: none"> ➤ Facilitating the <u>rehabilitation</u> of the offender; ➤ Ensuring that the offender makes <u>reparation</u> for the offence; or ➤ <u>Punishing</u> the offender. ❖ The recipient can be prosecuted for the offence on which the caution is based if they <u>do not comply with the conditions.</u> 		
	<p><u>When can a conditional caution be given?</u></p>	<ul style="list-style-type: none"> ❖ A condition caution can be given where: <ul style="list-style-type: none"> ➤ There is <u>evidence</u> that the offender has committed an offence; ➤ A relevant <u>prosecutor</u> has determined that there is <u>sufficient evidence to charge the offender,</u> and that a conditional caution <u>should be given;</u> ➤ The offender has <u>admitted</u> that they committed the offence; ➤ The <u>effect</u> of the conditional caution has been <u>explained to the offender,</u> and the offender has been <u>warned that any failure to comply may result in them being prosecuted</u> for the offence itself. 	
	<p><u>What impact will the conditional caution have?</u></p>	<ul style="list-style-type: none"> ❖ The caution is a <u>formal recorded admission of guilt</u> which will <u>form part of an offender's record.</u> This may affect how they are sentenced should they re-offend in future. ❖ The client will almost certainly <u>lose the opportunity of receiving a caution</u> on a subsequent occasion. ❖ The existence of the caution will be <u>disclosable</u> should the client apply for <u>certain types of employment</u> (particularly entry to a profession, such as law). ❖ If the offence is sexual, the client will be <u>placed on the sex offender's register.</u> ❖ The police may <u>retain fingerprints</u> and other identification data taken from the client (a record of cautions is usually kept for a minimum of five years). 	

Role of the Solicitor When Attending the Police Station

❖ [Criminal Litigation, Chapter 5](#)

Overview	<ul style="list-style-type: none"> ❖ An individual who has been arrested and detained at a police station is entitled to free legal advice, and to be represented by a solicitor (§58, the Police and Criminal Evidence Act 1984 (PACE 1984)). ❖ Where a client exercises their right, the solicitor’s role is to protect and advance their client’s legal rights (PACE Code C Guidance Notes, para 6D). In doing so, the solicitor will attend the police station to advise the client and accompany them in an interview.
-----------------	---

Steps for the Solicitor

❖ [Criminal Litigation, 5.2](#)

Initial Instruction	
<p><u>A telephone call from the DSCC.</u></p> <p><u>Criminal Litigation, 5.2</u></p>	<ul style="list-style-type: none"> ❖ The solicitor’s first notice of their instruction will be by way of a telephone call from the Defence Solicitor Call Centre (DSCC). ❖ They will inform the solicitor: <ul style="list-style-type: none"> ➢ That the suspect has been arrested and wants a solicitor to attend the police station to represent them. ➢ Of minimal details, such as the client’s name, and the alleged offence.
<p><u>A telephone call to the client.</u></p> <p><u>Criminal Litigation, 5.2</u></p>	<ul style="list-style-type: none"> ❖ After speaking to the DSCC, the solicitor should speak to the client on the phone and: <ul style="list-style-type: none"> ➢ Identify themselves; ➢ Ask the client to confirm that they want the solicitor to come to the police station; ➢ Remind the client that any advice will be free; ➢ Tell the client: <ul style="list-style-type: none"> ▪ When they will attend and what they will do when they attend; ▪ Not to talk to anyone else about the case; ▪ In the solicitor’s absence, not to: <ul style="list-style-type: none"> • Agree to be interviewed, • Sign anything, • Give any samples, or; • Take part in an identification procedure. ❖ The solicitor should not assume that the conversation will be completely confidential. The client should therefore be advised to confine themselves to ‘Yes/No’ answers. ❖ The solicitor will ascertain the detailed version of events when they attend the police station.
Preparation to Attend	
<p><u>Prepare to attend the police station.</u></p>	<ul style="list-style-type: none"> ❖ The solicitor will normally not be required to attend the police station until the police notify the solicitor that they are ready to interview the client. ❖ In the interim period, the solicitor should prepare by:

<p>Criminal Litigation, 5.2.3</p>	<ul style="list-style-type: none"> ➤ Checking the law on the specific offence(s) the client has been arrested for. ➤ Checking old files if the firm has represented the client previously to determine whether the client has any previous relevant convictions, or is vulnerable. 		
<p>Attend the Police Station</p>			
<p>Speak to the custody officer¹</p> <p>Criminal Litigation, 5.3.1</p>	<ul style="list-style-type: none"> ❖ A suspect who has been arrested must be brought before a “custody officer” on arrival at the police station “as soon as practicable” (para 2.1A, PACE Code C). ❖ As set out in our note on Procedure from Arrest to Charge, the custody officer is responsible for: <ul style="list-style-type: none"> ➤ Authorising the detention of the suspect, and ➤ Supervising the suspect’s welfare whilst in police custody. ❖ As part of their role, the custody officer must maintain: <ul style="list-style-type: none"> ➤ A custody record: this records key information such as the suspect’s personal details; details of the offence and why the suspect was detained; the date and time of arrest and detention. ➤ A detention log: this is a record of all of the significant events that occur whilst the suspect is in custody. ❖ The solicitor has a right to view the custody record and detention log (PACE Code C, para 2.4): 		
	<table border="1" style="width: 100%;"> <tr> <td data-bbox="297 1213 505 1797"> <p>Check the custody record and detention log</p> </td> <td data-bbox="505 1213 1523 1797"> <ul style="list-style-type: none"> ❖ On arrival at the police station, the solicitor should speak to the custody officer and check the custody record and detention log and determine the following information²: <ul style="list-style-type: none"> ➤ The alleged offence. ➤ The time when the custody officer authorised detention. <ul style="list-style-type: none"> ▪ This is relevant for assessing whether Detention Reviews have been carried out on time (see Considerations When Reviewing the Custody Record and Detention Log). ➤ The grounds for authorisation of detention: <ul style="list-style-type: none"> ▪ In order to authorise the suspect to be kept in police detention, the custody officer must be satisfied either that: <ul style="list-style-type: none"> • There are reasonable grounds for believing that detaining the suspect without charge is necessary </td> </tr> </table>	<p>Check the custody record and detention log</p>	<ul style="list-style-type: none"> ❖ On arrival at the police station, the solicitor should speak to the custody officer and check the custody record and detention log and determine the following information²: <ul style="list-style-type: none"> ➤ The alleged offence. ➤ The time when the custody officer authorised detention. <ul style="list-style-type: none"> ▪ This is relevant for assessing whether Detention Reviews have been carried out on time (see Considerations When Reviewing the Custody Record and Detention Log). ➤ The grounds for authorisation of detention: <ul style="list-style-type: none"> ▪ In order to authorise the suspect to be kept in police detention, the custody officer must be satisfied either that: <ul style="list-style-type: none"> • There are reasonable grounds for believing that detaining the suspect without charge is necessary
<p>Check the custody record and detention log</p>	<ul style="list-style-type: none"> ❖ On arrival at the police station, the solicitor should speak to the custody officer and check the custody record and detention log and determine the following information²: <ul style="list-style-type: none"> ➤ The alleged offence. ➤ The time when the custody officer authorised detention. <ul style="list-style-type: none"> ▪ This is relevant for assessing whether Detention Reviews have been carried out on time (see Considerations When Reviewing the Custody Record and Detention Log). ➤ The grounds for authorisation of detention: <ul style="list-style-type: none"> ▪ In order to authorise the suspect to be kept in police detention, the custody officer must be satisfied either that: <ul style="list-style-type: none"> • There are reasonable grounds for believing that detaining the suspect without charge is necessary 		

¹ [Workshop 13, Preparatory Task, Question \(a\); Workshop Task 1](#)

² Specific matters which the solicitor should bear in mind when considering this information are set out in a separate guide on [Considerations When Reviewing the Custody Record and Detention Log](#).

	<p>to secure or preserve evidence relating to an offence for which he is under arrest; or</p> <ul style="list-style-type: none"> • It is <u>necessary to obtain such evidence by questioning (s37(2))</u>. <ul style="list-style-type: none"> ➤ <u>Any significant comments made by the client.</u> ➤ <u>Any samples, fingerprints or impressions of footwear which may already have been taken.</u> ➤ <u>Any identification procedure which may have taken place.</u> ➤ <u>Any interview which may already have taken place.</u> <ul style="list-style-type: none"> ▪ NB: police are entitled, in certain circumstances, to interview suspects without their legal representative present, however, no adverse inferences may be drawn from silence in such an interview if the suspect had not been allowed access to legal advice (s58, Youth Justice and Criminal Evidence Act 1999). ➤ <u>Whether the client is under any form of physical or mental disability.</u> ➤ <u>Whether the client is ill, vulnerable or requires medical treatment.</u> ➤ <u>Any significant items found as a result of a search of the client’s person or property, or of where the client was arrested.</u> ➤ <u>If the client has already been at the police station for six hours or more, details of any detention reviews.</u> <p>❖ Speaking to the custody officer and examining the detention log and custody record is largely about checking on the client’s welfare and ensuring that they have been treated appropriately at the police station (see below).</p>
<p>Speak to the investigating officer³</p> <p>Criminal Litigation, 5.3.2</p>	<p>❖ The investigating officer investigates the offence and is responsible for taking steps in order to preserve or obtain evidence whilst the suspect is in police custody, such as:</p> <ul style="list-style-type: none"> ➤ Carrying out an interview; ➤ Carrying out an identification procedure; ➤ Taking fingerprints; ➤ Taking samples from the suspect; and ➤ Taking photographs of the suspect. <p>❖ The solicitor should seek to obtain, from the investigating officer:</p>

³ [Workshop 13, Prep Task, Question \(b\)](#)

<p><u>Details of the facts of the offence.</u></p>	<ul style="list-style-type: none"> ❖ The custody log/detention record alone is likely to show solely <u><i>the offence</i></u> (e.g., fraud), but <u><i>not</i></u> the facts behind it. 				
<p><u>Disclosure of the police’s evidence.</u></p>	<table border="1"> <tr> <td data-bbox="540 289 738 846"> <p><u>Disclosure Statements</u>⁴</p> </td> <td data-bbox="738 289 1507 846"> <ul style="list-style-type: none"> ❖ Disclosure is commonly provided by way of a <u>typed disclosure statement</u> which <u>summarises the evidence that the police have.</u> ❖ If this is the case, the solicitor should ask the police what <u>other additional evidence</u> they may have and press them to <u>disclose this</u>, including any: <ul style="list-style-type: none"> ➤ Statements from witnesses. ➤ Samples or fingerprints. ➤ CCTV evidence. ➤ Documentary evidence. ➤ Real evidence (e.g., a weapon, drugs found on the suspect). </td> </tr> <tr> <td data-bbox="540 846 738 1682"> <p><u>Police’s Obligations</u></p> </td> <td data-bbox="738 846 1507 1682"> <ul style="list-style-type: none"> ❖ The police are <u>not obliged</u> to provide the solicitor with evidence. ❖ However, PACE Code C, Para 11.1A provides that <i>“Before a person is interviewed, they and, if they are represented, their solicitor must be given <u>sufficient information to enable them to understand the nature of any such offence</u>, and why they are suspected of committing it”</i>. ❖ Therefore, if the police <u>do not provide sufficient disclosure:</u> <ul style="list-style-type: none"> ➤ The solicitor is entitled to point out that they <u>cannot properly advise their client</u> as to the nature of the case against them and therefore will only be able to <u>advise the client to give a “no comment” interview.</u> ➤ The officer’s refusal will be noted in the custody record, and the solicitor can make a note in the <u>police station attendance log.</u> </td> </tr> </table>	<p><u>Disclosure Statements</u>⁴</p>	<ul style="list-style-type: none"> ❖ Disclosure is commonly provided by way of a <u>typed disclosure statement</u> which <u>summarises the evidence that the police have.</u> ❖ If this is the case, the solicitor should ask the police what <u>other additional evidence</u> they may have and press them to <u>disclose this</u>, including any: <ul style="list-style-type: none"> ➤ Statements from witnesses. ➤ Samples or fingerprints. ➤ CCTV evidence. ➤ Documentary evidence. ➤ Real evidence (e.g., a weapon, drugs found on the suspect). 	<p><u>Police’s Obligations</u></p>	<ul style="list-style-type: none"> ❖ The police are <u>not obliged</u> to provide the solicitor with evidence. ❖ However, PACE Code C, Para 11.1A provides that <i>“Before a person is interviewed, they and, if they are represented, their solicitor must be given <u>sufficient information to enable them to understand the nature of any such offence</u>, and why they are suspected of committing it”</i>. ❖ Therefore, if the police <u>do not provide sufficient disclosure:</u> <ul style="list-style-type: none"> ➤ The solicitor is entitled to point out that they <u>cannot properly advise their client</u> as to the nature of the case against them and therefore will only be able to <u>advise the client to give a “no comment” interview.</u> ➤ The officer’s refusal will be noted in the custody record, and the solicitor can make a note in the <u>police station attendance log.</u>
<p><u>Disclosure Statements</u>⁴</p>	<ul style="list-style-type: none"> ❖ Disclosure is commonly provided by way of a <u>typed disclosure statement</u> which <u>summarises the evidence that the police have.</u> ❖ If this is the case, the solicitor should ask the police what <u>other additional evidence</u> they may have and press them to <u>disclose this</u>, including any: <ul style="list-style-type: none"> ➤ Statements from witnesses. ➤ Samples or fingerprints. ➤ CCTV evidence. ➤ Documentary evidence. ➤ Real evidence (e.g., a weapon, drugs found on the suspect). 				
<p><u>Police’s Obligations</u></p>	<ul style="list-style-type: none"> ❖ The police are <u>not obliged</u> to provide the solicitor with evidence. ❖ However, PACE Code C, Para 11.1A provides that <i>“Before a person is interviewed, they and, if they are represented, their solicitor must be given <u>sufficient information to enable them to understand the nature of any such offence</u>, and why they are suspected of committing it”</i>. ❖ Therefore, if the police <u>do not provide sufficient disclosure:</u> <ul style="list-style-type: none"> ➤ The solicitor is entitled to point out that they <u>cannot properly advise their client</u> as to the nature of the case against them and therefore will only be able to <u>advise the client to give a “no comment” interview.</u> ➤ The officer’s refusal will be noted in the custody record, and the solicitor can make a note in the <u>police station attendance log.</u> 				
<p><u>Any significant statements or silences made by the client.</u></p>	<ul style="list-style-type: none"> ❖ The solicitor needs to find out if, prior to their arrival at the police station, the client made <u>any “significant statement”</u> (or there has been a <u>“significant silence”</u>) that is likely to be put to the client in the interview. 				

⁴ [Workshop 13, Task 1](#)

		<p>❖ The terms “significant statement” and “significant silence” are defined in PACE Code C, para 11.4A:</p> <table border="1" data-bbox="540 247 1495 527"> <tr> <td data-bbox="540 247 721 367">Significant statement.</td> <td data-bbox="721 247 1495 367">❖ A statement which appears capable of being used in evidence against the suspect at trial, in particular a direct admission of guilt.</td> </tr> <tr> <td data-bbox="540 367 721 527">Significant silence.</td> <td data-bbox="721 367 1495 527">❖ A failure or refusal to answer a question or to answer satisfactorily when under caution, which might allow the court to draw adverse inferences from that silence at trial.</td> </tr> </table>	Significant statement.	❖ A statement which appears capable of being used in evidence against the suspect at trial, in particular a direct admission of guilt.	Significant silence.	❖ A failure or refusal to answer a question or to answer satisfactorily when under caution , which might allow the court to draw adverse inferences from that silence at trial.							
Significant statement.	❖ A statement which appears capable of being used in evidence against the suspect at trial, in particular a direct admission of guilt.												
Significant silence.	❖ A failure or refusal to answer a question or to answer satisfactorily when under caution , which might allow the court to draw adverse inferences from that silence at trial.												
	<p>Details of the next steps in the investigation.</p>	<p>❖ The next step is likely to be an interview, then possible charge and release on bail pending a hearing at the magistrates’ court.</p>											
<p>Speak to the client.</p> <p><i>Criminal Litigation, 5.3.3; 5.5.1</i></p>	<p>❖ After speaking to the custody officer, and the investigating officer, the solicitor should speak to the client and address the following matters:</p> <table border="1" data-bbox="313 808 1511 1919"> <tr> <td data-bbox="313 808 532 1010"> <p>Explain the solicitor’s identity and role:</p> </td> <td data-bbox="532 808 1511 1010"> <p>❖ The solicitor should explain that:</p> <ul style="list-style-type: none"> ➢ They have no connection to the police. ➢ Their role is to provide the client with free independent legal advice, and protect and advance the client’s legal rights; ➢ Anything they are told will remain confidential. </td> </tr> <tr> <td data-bbox="313 1010 532 1171"> <p>Explain the details of the alleged offence:</p> </td> <td data-bbox="532 1010 1511 1171"> <p>❖ The solicitor will inform the client what they have been told by the investigating officer about the offence and advise as to the substantive law and what the police need to prove.</p> </td> </tr> <tr> <td data-bbox="313 1171 532 1291"> <p>Obtain the client’s instructions:</p> </td> <td data-bbox="532 1171 1511 1291"> <p>❖ The solicitor will obtain the client’s version of events and make a note recording these.</p> </td> </tr> <tr> <td data-bbox="313 1291 532 1411"> <p>Advise as to the next steps:</p> </td> <td data-bbox="532 1291 1511 1411"> <p>❖ The solicitor will advise the client what happens next (normally an audibly recorded interview).</p> </td> </tr> <tr> <td data-bbox="313 1411 532 1919"> <p>Prepare for Interview</p> <p><i>Criminal Litigation, 5.5.1</i></p> </td> <td data-bbox="532 1411 1511 1919"> <p>❖ The client should be advised of:</p> <table border="1" data-bbox="532 1493 1495 1919"> <tr> <td data-bbox="532 1493 721 1919"> <p>The most appropriate method of answering the police’s questions in the interview.</p> </td> <td data-bbox="721 1493 1495 1919"> <p>❖ There are four options that a client has to respond to questions put in the interview, each of which has pros and cons. The options are:</p> <ul style="list-style-type: none"> ➢ Answer all questions; ➢ Give a ‘no comment interview’; ➢ Selective silence, where the client answers some questions but not others (not advisable). ➢ Hand in a written statement and give a ‘no comment interview’ ➢ See notes on <i>Responses to Interview Questions</i> </td> </tr> </table> </td> </tr> </table>	<p>Explain the solicitor’s identity and role:</p>	<p>❖ The solicitor should explain that:</p> <ul style="list-style-type: none"> ➢ They have no connection to the police. ➢ Their role is to provide the client with free independent legal advice, and protect and advance the client’s legal rights; ➢ Anything they are told will remain confidential. 	<p>Explain the details of the alleged offence:</p>	<p>❖ The solicitor will inform the client what they have been told by the investigating officer about the offence and advise as to the substantive law and what the police need to prove.</p>	<p>Obtain the client’s instructions:</p>	<p>❖ The solicitor will obtain the client’s version of events and make a note recording these.</p>	<p>Advise as to the next steps:</p>	<p>❖ The solicitor will advise the client what happens next (normally an audibly recorded interview).</p>	<p>Prepare for Interview</p> <p><i>Criminal Litigation, 5.5.1</i></p>	<p>❖ The client should be advised of:</p> <table border="1" data-bbox="532 1493 1495 1919"> <tr> <td data-bbox="532 1493 721 1919"> <p>The most appropriate method of answering the police’s questions in the interview.</p> </td> <td data-bbox="721 1493 1495 1919"> <p>❖ There are four options that a client has to respond to questions put in the interview, each of which has pros and cons. The options are:</p> <ul style="list-style-type: none"> ➢ Answer all questions; ➢ Give a ‘no comment interview’; ➢ Selective silence, where the client answers some questions but not others (not advisable). ➢ Hand in a written statement and give a ‘no comment interview’ ➢ See notes on <i>Responses to Interview Questions</i> </td> </tr> </table>	<p>The most appropriate method of answering the police’s questions in the interview.</p>	<p>❖ There are four options that a client has to respond to questions put in the interview, each of which has pros and cons. The options are:</p> <ul style="list-style-type: none"> ➢ Answer all questions; ➢ Give a ‘no comment interview’; ➢ Selective silence, where the client answers some questions but not others (not advisable). ➢ Hand in a written statement and give a ‘no comment interview’ ➢ See notes on <i>Responses to Interview Questions</i>
<p>Explain the solicitor’s identity and role:</p>	<p>❖ The solicitor should explain that:</p> <ul style="list-style-type: none"> ➢ They have no connection to the police. ➢ Their role is to provide the client with free independent legal advice, and protect and advance the client’s legal rights; ➢ Anything they are told will remain confidential. 												
<p>Explain the details of the alleged offence:</p>	<p>❖ The solicitor will inform the client what they have been told by the investigating officer about the offence and advise as to the substantive law and what the police need to prove.</p>												
<p>Obtain the client’s instructions:</p>	<p>❖ The solicitor will obtain the client’s version of events and make a note recording these.</p>												
<p>Advise as to the next steps:</p>	<p>❖ The solicitor will advise the client what happens next (normally an audibly recorded interview).</p>												
<p>Prepare for Interview</p> <p><i>Criminal Litigation, 5.5.1</i></p>	<p>❖ The client should be advised of:</p> <table border="1" data-bbox="532 1493 1495 1919"> <tr> <td data-bbox="532 1493 721 1919"> <p>The most appropriate method of answering the police’s questions in the interview.</p> </td> <td data-bbox="721 1493 1495 1919"> <p>❖ There are four options that a client has to respond to questions put in the interview, each of which has pros and cons. The options are:</p> <ul style="list-style-type: none"> ➢ Answer all questions; ➢ Give a ‘no comment interview’; ➢ Selective silence, where the client answers some questions but not others (not advisable). ➢ Hand in a written statement and give a ‘no comment interview’ ➢ See notes on <i>Responses to Interview Questions</i> </td> </tr> </table>	<p>The most appropriate method of answering the police’s questions in the interview.</p>	<p>❖ There are four options that a client has to respond to questions put in the interview, each of which has pros and cons. The options are:</p> <ul style="list-style-type: none"> ➢ Answer all questions; ➢ Give a ‘no comment interview’; ➢ Selective silence, where the client answers some questions but not others (not advisable). ➢ Hand in a written statement and give a ‘no comment interview’ ➢ See notes on <i>Responses to Interview Questions</i> 										
<p>The most appropriate method of answering the police’s questions in the interview.</p>	<p>❖ There are four options that a client has to respond to questions put in the interview, each of which has pros and cons. The options are:</p> <ul style="list-style-type: none"> ➢ Answer all questions; ➢ Give a ‘no comment interview’; ➢ Selective silence, where the client answers some questions but not others (not advisable). ➢ Hand in a written statement and give a ‘no comment interview’ ➢ See notes on <i>Responses to Interview Questions</i> 												

		<p><u>Interview procedure</u></p>	<p>❖ The solicitor should explain that the interview will be <u>recorded</u>, and that it can be <u>stopped at any time</u> if the client requires further <u>legal advice</u>.</p>
		<p><u>Possible tactics the police will adopt to get the client to answer questions.</u></p>	<p>❖ The client should be warned in advance of <u>tactics</u> the police may use to get them to answer questions, such as:</p> <ul style="list-style-type: none"> ➤ <u>Asking apparently innocuous questions</u> as an attempt to get the client to start talking; ➤ Trying to <u>alienate the client from the solicitor</u>; ➤ <u>Warning the client that certain consequences may arise</u> unless he answers questions.

When the investigation has completed.

<p><u>When the police's investigation has completed:</u></p> <p><i><u>Criminal Litigation,</u></i> <i><u>5.3.3</u></i></p>	<ul style="list-style-type: none"> ❖ If there is insufficient evidence to justify charging the client, the solicitor should: <ul style="list-style-type: none"> ➤ Draw this to the attention of the investigating and the custody officer, and make representations to persuade the custody officer to <u>release the client without charge.</u> ❖ If the police intend to charge the client, the solicitor should, if appropriate, make representations that the client should be dealt with in a way <u>other than by way of charge</u> i.e., by an: <ul style="list-style-type: none"> ➤ Informal warning. ➤ Penalty notice. ➤ Simple caution. ➤ Conditional caution. ➤ (See notes on <i><u>Alternatives to Charging</u></i>).
---	---