



**Association of Chief Police Officers of England,  
Wales & Northern Ireland**

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# **Internet Social Media and Identification Procedures**

GUIDANCE PRODUCED BY THE NATIONAL VISUAL AND VOICE IDENTIFICATION  
STRATEGY GROUP (NVVIS)

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## Forward

1. This document provides guidance to police officers when they encounter situations where an eye witness to an incident that is now subject to a police investigation has previously searched through social media in order to identify any person(s) involved in the incident.
2. This document encompasses guidance for Investigating Officers and Identification Officers with the corresponding sections intending to form stand alone guidance for those specific audiences.
3. The fundamental principle to consider when consulting the guidance is that each investigation is unique in nature and as such the guidance needs to be considered and applied on the merits of each individual case.
4. It is important to recognise that detailed evidence of any identification procedure, *formal* or otherwise, is required in the interests of both prosecution and defence.
5. A witness carrying out their own visual identification prior to any *formal* procedure being held, or even before the police become involved, simply falls to be considered as part of PACE Code D 3.12(i):

3.12 Whenever:

- (i) an eyewitness has identified a suspect or purported to have identified them prior to any identification procedure set out in paragraphs 3.5 to 3.10 having been held; or...
6. Although a social media identification may have its own difficulties, in principle it is no different to any other type of *informal* identification procedure, whether that consists of an accidental sighting, a street identification, seeing a picture on Crimewatch or by any other method.
  7. In order to minimise any subsequent difficulties, officers must be alive to:
    - A. The duty to obtain as much detail about the *informal* identification as possible;
    - B. The importance of keeping accurate records of what happened
    - C. The need to ensure that any disclosure of unused material to the defence is carried out properly and promptly.
  8. Statement of legislative compliance:

This document has been drafted to comply with the general and specific duties in:

The Police and Criminal Evidence Act 1984,  
The Equality Act 2010,  
The European Convention of Human Rights,  
The Data Protection Act 1998 and  
The Freedom of Information Act 2000.

### Issues for the Investigating Officer

1. Access to social media by the profile owner and/or third parties, together with the opportunity to make contemporaneous modification to its content, means that obtaining this evidence as a priority is essential before the content is changed. Failure to do so may undermine any related arrest, identification procedure or prosecution.
2. Simply providing a copy of the image from the social media site from which the witness has identified the suspect is not sufficient. The provenance of that evidence is required and can be obtained by following this guidance.
3. The evidence you seek to obtain from the witness who has used social media in relation to tracing a suspect is two fold. Firstly, you must capture as closely as possible what exactly the witness did and secondly you must capture why the witness did it. These two evidential aspects need addressing for each and every stage of their social media trawl in relation to the incident you are investigating.
4. There is no prescribed method of obtaining the social media evidence. Examples include the creation of detailed notes, obtaining screen shots, compiling witness statements, videoing the witness recreating the social media trawl and asking questions as part of that procedure. The information needs to be recorded in a manner which can be seen by the defence, either as evidence served as part of the case or disclosed as unused material.
5. The more detail you can obtain about what the witness did and why they did it, the better the evidence and the stronger the prosecution case will be. The following list of considerations is not exhaustive – it should be considered to be a minimal standard. You should seek to obtain the most comprehensive responses as possible in relation to what the witness did and why they did it for each aspect.
6. The following evidential considerations should form the basis of your social media evidence. If the witness used multiple social media sites, these considerations should be explored in respect of each one, regardless of whether the witness located the suspect or not. Ensure to obtain as thorough detail as possible:
  - A. What information did the witness have before starting their social media research?
  - B. Was the information personally known to the witness, or was it provided by another person? If so, whom?
  - C. How did the witness gain that information?
  - D. Which social media site was accessed?
  - E. When and where was it accessed?
  - F. Were any other persons present and assisting with the search? Who and Why?
  - G. What device was used for the access?
  - H. How big was the screen for the device(s) used to carry out the research?
  - I. What search criteria was used to start with and why?

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**J.** For each screen encountered prior to an identification, consider:

1. What information, text and images, was displayed to the witness?
2. Has any of that information been added to, removed from or changed?
3. How did that influence the witness' next move?
4. How long was the information on the screen/the image viewed for?
5. Were any parts of the screen zoomed in upon? Why?
6. Why could they discount the information on the screen?
7. What did they select next to move on and why?
8. Did the witness return to any of these pages for secondary consideration?

**K.** For the first image where the suspect is located consider in thorough detail:

1. What was shown on the screen which allowed the identification to be made?
2. What was it specifically about the image that triggered the identification? (visibility of facial features, pose or actions of person in image etc)
3. What was the witness' response to seeing the person(s) they identified? (physical reaction, verbal reaction, thoughts, etc)
4. Did the witness express any doubt?
5. Was there any prompting from other persons present?
6. How long was that screen viewed before the identification was made?
7. Was the witness familiar with the location shown in the image?
8. Were any parts of the screen zoomed in upon? Why?
9. Was the memory of any further detail about the person triggered by viewing the screen?
10. Has any information been added to, removed from or changed on the screen since the identification was made?
11. How many times has the witness viewed the image since locating it?
12. Having located and identified an image of the person, was the person on any previous images in the trawl and not identified? If so, ensure this is included in the witness' evidence.

**L.** Continue the procedure for any further images viewed by the witness on social media in relation to the suspect/incident.

7. Having gathered the evidence from the witness who made the identification, obtain further evidence from any other person present when the witness viewed the social media in question (i.e. anyone who provided information which lead to the search criteria being used, anyone assisting in the search etc) to the same depth of detail.
8. It is important that wherever possible, copies of all the images that were viewed and considered, including those images that were discounted, in whatever format, either printed or saved on a computer, must be exhibited in statements.

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9. Any further access to the images by the witness may compromise *formal* identification procedures and undermine the prosecution case. As such, once the social media evidence has been obtained and the images preserved, the witness should be told not to revisit the site(s). If the witness states that access is required, the reason should be included in their evidence and they should be told not to access the areas of the site(s) where they encountered the images of the person.
  
10. Ensure that all the above evidence is put to the suspect in interview and obtain the suspect's view as to the accuracy of the identification. Use the depth of detail obtained in the evidence to challenge any dispute.
  
11. Once you have gathered all your social media evidence, you need to review your evidence as a whole and consider whether identification is an issue. Once you have made such a decision, you can refer the matter to an Identification Officer with a view to considering the need for further identification procedures.

**Issues for the Identification Officer.**

1. The decision to authorise identification procedures or not lies with the Identification Officer once they have assessed all the evidence including that from the social media. It is essential that the decision to authorise (or not as the case may be) a *formal* procedure is documented in a manner accessible to the prosecution and defence.
2. A witness using social media to research the identity of a suspect does not exclude them from taking part in an identification procedure. Any such identification which takes place before a *formal* identification procedure is both probative and admissible evidence in the same way as any other kind of *informal* 'uncontrolled' identification such as street identifications or accidental encounters.
3. In order to make an informed decision the Identification Officer will need to review the evidence gathered in the first part of this document by the investigators. If the guidance has not been sufficiently adhered to, or the required information is lacking in detail, the decision to authorise identification procedures should be delayed until the information has been gathered.
4. Social media identification is evidence in the case (see R v Alexander and McGill [2012] EWCA Crim 2768) and to obtain provenance of the evidence is paramount. Due to the 'living' nature of social media, this evidence must be obtained as a priority and any delay in order to undertake identification procedures will ultimately be detrimental to the prosecution.
5. Code D 3.12 anticipates that *formal* identification procedures "shall" follow any *informal* identification as described in Code D 3.12(i), provided the suspect disputes the identification. The *formal* procedures, set in Code D 3.5 to 3.10, must serve a useful purpose in proving or disproving whether the suspect was involved in committing the offence. This aspect must be considered in the light of both limbs of Code D 1.2.
6. Due to the variety in circumstances of each incident and the quality of witness evidence, it is not possible to produce a simple 'formula' to assess whether an identification procedure is necessary and justified.
7. One of the main issues will be whether the witness identifies the offender in a subsequent identification procedure or identifies the person depicted in the relevant social media.
8. Only a limited number of cases featuring identification by social media have reached the Higher Courts but that number will undoubtedly grow as time passes. The cases illustrate the general principles set out in this guidance:
  - A. That a social media identification is admissible evidence in the case but *formal* identification should still be considered applying code D.
  - B. That each case is unique on its own facts
  - C. That obtaining full details of the social media identification is essential

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9. Apart from the risk of a complicated set of facts that must be recorded, examples of other potential problems that might be caused by social media identifications include:
  - A. Collusion or an identification prompted by others
  - B. The way in which a potential suspect is portrayed in social media imagery (or the way they portray themselves)
  - C. The possible contamination of a subsequent *formal* identification procedure
10. Where the evidence is placed before the jury, these problems are pointed out to them by the trial judge. They are dealt with by way of judicial directions which inform the jury as to how they should approach the facts and what factors they may wish to take into account in attributing what weight they give to various aspects of the evidence in the case as a whole.
11. It may be that officers will feel that there is little they can do when faced with a social media identification, that it is a "Fait accompli". Although they cannot affect what has already happened, by following this guidance they will be able to obtain a substantial amount of evidence to show what did happen and why it happened. In doing so, they will be able to provide the court with as full a picture as possible to enable the trial judge to deal with any difficulties that arise.
12. In the event of a disagreement about the necessity to conduct a *formal* identification procedure, the CPS would be expected to communicate their views to the police.