

Guidance for
Evidential
Drug
Identification
Testing in Police Stations



NPIA
National Policing
Improvement Agency

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Section 1 Preface

1.1 Introduction

The EDIT process makes use of Home Office approved drug testing kits (DTK) and a CPS approved staged reporting process to allow a case disposal decision to be made in drug possession cases without having to bail the person to return pending forensic analysis.

The process has been successfully piloted in the Metropolitan Police Service, Merseyside Police and Nottinghamshire Police. It simplifies and speeds up the criminal justice process in line with Simple Speedy Summary Justice (CJSS) objectives. It assists timely treatment interventions and makes significant savings in police time and forensic submission costs.¹

It simplifies and speeds up the criminal justice process

1.2 Background

Home Office Circular 40 of 1998 allows the use of approved drug testing kits. These kits identify controlled drugs in uncontested possession cases where the arrested person has correctly identified the drug before knowing the test result. Identification by an experienced² police officer can be used in cannabis cases. Home Office Circular 10 of 2005 extended the DTK range to include cocaine as well as opiates and amphetamines.

Take-up of these kits has varied from force to force. This is because they are used only in uncontested cases which some people think induces offenders to be uncooperative. For instance, if they don't cooperate they will be quickly bailed from the custody suite. However, if they do cooperate they are likely to be in custody a lot longer.

EDIT, incorporating the staged reporting process, removes this incentive because the DTKs can be used in contested and uncontested cases.

1.3 Staged Reporting Process

The staged reporting process is successfully being used for fingerprint identification evidence. It has also been trialled for DNA evidence.

Full forensic identification evidence is only provided in cases where evidence of identity is challenged. This means a less precise form of identification is enough for the majority of prosecutions. Considerable cost and time savings are made without harming the integrity of individual cases.

The staged reporting process is used in exactly the same way with EDIT. DTKs are used to allow immediate case disposal decisions. An experienced officer's identification can be used in cannabis cases. In drug possession offence charges, where identification is challenged in court, a forensic scientist will carry out a comprehensive drug analysis. This is called the disputed test procedure in this guidance.

1. The evaluation found that Ealing Borough – the MPS pilot site - would save £13,600 in forensic costs on an average of just over 60 cases per month. A further minimum of £294,000 in staffing costs would also be saved. Ealing Borough had used the uncontested drug testing kit procedure before the pilot. If it had not it is estimated that the forensic savings would have been tripled and the staff savings would have been doubled.

2. Identification evidence by an experienced police officer has been accepted by the Crown Prosecution Service since 1987 for possession only of cannabis cases.

1.4 Possession cases only

This guidance applies only to case disposals for controlled drug possession cases. If the case disposal is for any other offence, such as possession with intent to supply, the correct procedure is to submit the suspected controlled drug (SCD) for forensic analysis. This is because, in drug trafficking cases, the court may need weight and purity information to make correct sentencing decisions. This information is also valuable for intelligence purposes.

This guidance applies only to case disposals for controlled drug possession cases

1.5 Magistrates' and youth courts only

The guidance only applies to court cases heard at Magistrates' and Youth Courts. A statement from a forensic scientist identifying the SCD may be required if the case is referred to a Crown Court.

1.6 EDIT staged reporting process – young people

The EDIT staged reporting process can equally apply to young people. The only difference is that a warning or reprimand replaces a caution as a case disposal option. Whether or not the young person needs to be bailed to return pending a case disposal decision should also be considered.

1.7 EDIT staged reporting process – cannabis

Most cannabis possession cases will be dealt with by a cannabis warning. The EDIT staged reporting process for cannabis applies where the cannabis warning option is not appropriate.

If the SCD is suspected to be cannabis, the DTK is replaced by sight and smell evidence from an officer experienced in investigating cannabis offences. The officer(s) positively identifying the SCD as cannabis must clearly show their grounds in their arrest notes or in a witness statement.

Section 2 Evidential Drug Identification Test (EDIT) Process

Decision makers: colour key

-  Arresting Officer
-  Custody Officer
-  Tester
-  Investigating Officer
-  Evidential Review Officer
-  CPS

What if there's a significant delay seeing the custody officer?

If a negative EDIT is likely to lead to a de-arrest and release then the test can sometimes be carried out earlier. See page 10

1

Arrested for drug possession

2

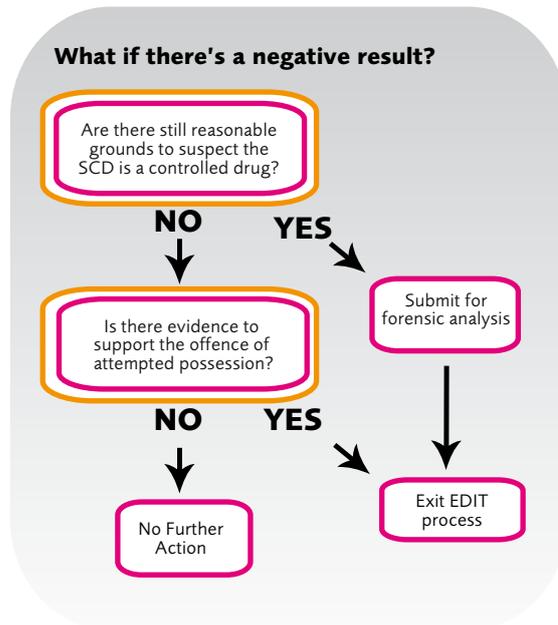
Custody Officer provided with evidence of arrest. Detention authorised

What if the detainee was originally arrested for PWITS?

If the detainee was arrested for Possession With Intent To Supply and the offence is later changed to one of Possession, then the process can start with the test at Stage 3

What if more SCDs are found?

Restart the EDIT process from the beginning with the new Arrest



3

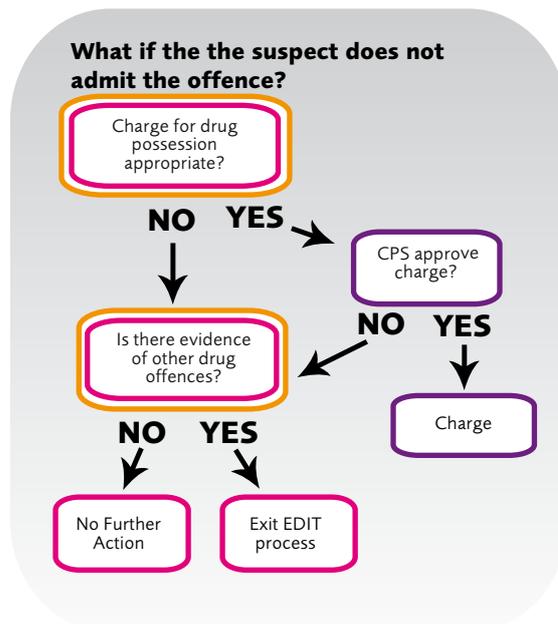
EDIT carried out. Necessary paperwork complete. Notice explaining disputed test procedure given to suspect. See Appendices B and C

4

Result is positive

5

Case disposal: caution or charge



EDIT Process

2.1 EDIT Process Chart

The previous page charts the EDIT process. It highlights the decisions to be made and who should make them. The arresting officer, the tester, the investigating officer, the custody officer, the evidential review officer (ERO)³, and the Crown Prosecution Service (CPS), make decisions in the process. The arresting officer, the tester and investigating officer can be the same person or two or three different people. An explanation of the chart follows:

If detention is authorised an EDIT is carried out as soon as possible

2.1.1 Arrest

An arrest for possession of a controlled drug often takes place in the street or other place away from the custody suite. That means the arrested person and SCD have to be taken to the police station and custody suite. In normal circumstances the arrested person will see the custody officer without undue delay. However, under certain circumstances an EDIT can take place in the police station before the arrested person sees the custody officer⁴. An example is when there is likely to be a significant delay and a negative EDIT may mean the person can be de-arrested and released⁵. The arresting officer should consider the following points if the EDIT is negative:

- Are there still grounds to reasonably suspect the SCD is a controlled drug? Bear in mind that the Home Office approved DTKs do not detect all controlled drugs.
- Is there evidence to support an attempted possession of a controlled drug offence?

If the answer is no to both these questions the person should be de-arrested and released. The arresting officer should complete notes of arrest and give the details to the custody officer. A custody record can then be completed showing that the person had come to the police station but was de-arrested before seeing the custody officer. The tester will complete an MG11 (Appendix A) showing the negative results of the EDIT(s).⁶

If the answer is yes to either question, the person should be taken to the custody officer in the normal way.

An arrest for possession of a controlled drug can also take place inside the custody suite. This is when a person, already under arrest, is searched and an SCD is found.

2.1.2 Detention and further searches authorised

The custody officer hears and reviews the evidence of arrest and makes decisions about authorising detention and further searches. Where necessary this is done in consultation with an inspector or above, for instance in section 18 PACE searches.

If detention is authorised an EDIT is carried out as soon as possible. This will normally be at the same stage as LiveScan, Drug Interventions Programme (DIP) testing, and DNA swabs are carried out.

3. The ERO is the person who makes the case disposal decision.

4. It should be noted that in over 700 arrests during the pilot site evaluation period this option was not used once.

5. For instance, not also under arrest for a separate offence.

6. The streamlined process being introduced by the CPS will introduce new forms that remove the need for the MG11 in certain cases. The EDIT process can be easily adapted to conform to this.

2.1.3 Arrest for possession with intent to supply (PWITS) but possession case disposal

It is not unusual for an investigation to start off as a case of PWITS but revert to a case of disposal for possession. This happens when there is insufficient evidence of intent to supply. The EDIT procedure can be adopted as soon as it is decided to treat the investigation as a possession only offence.

It must be borne in mind that if the quantity of drug is significant and this needs to be brought to the attention of the court for sentencing purposes, forensic analysis should also be considered, as the weight will also be provided. Alternatively the officer in the case should make sure the drugs are taken to court and shown to the magistrate(s).

2.1.4 The EDIT

A tester, trained to use the DTK, carries out the EDIT. This must be done in a controlled environment in the police station to address cross-contamination issues. There is more than one type of DTK and the process will be different for each. All produce a visual result within minutes.

The tester completes an MG11 recording the EDIT result. The DTK is specific to a particular drug type or types. Therefore it is acceptable for the SCD to be subject to more than one EDIT using different DTKs. Caution should be used when only drug traces are present. This is because further forensic analysis may be needed if the disputed test procedure is initiated.

Together with the arresting officer, the tester is responsible for making sure the SCD's continuity evidence is properly recorded. They are also responsible for making sure it is properly packaged and exhibited. This allows a disputed test procedure to be carried out.

2.1.5 Disclosure

The arrested person will be informed of the EDIT result. They will receive a copy of the completed MG11(s) (Appendix A) and a notice regarding the EDIT Process, and disputed test procedures (Appendix B).

2.1.6 Negative EDIT

A negative EDIT result requires the investigating officer and/or the ERO to consider whether there are still grounds to suspect that the SCD is a controlled drug that the DTK are not designed to identify or if there is sufficient evidence for an attempted possession case disposal. No further action is necessary if neither of these applies.

2.1.7 Positive EDIT

A positive EDIT gives enough evidence that the SCD is a named⁷ controlled drug to allow a charge. Evidence of possession is also needed to prove an offence. This will normally be provided in the arresting officer's notes of arrest. An interview is unnecessary if the notes contain admissions of possession and are signed by the arrested person. The ERO then considers whether to charge or caution the person.

If there are no admissions, an interview should take place. If the person admits to possession in the interview, the ERO again decides between charge or caution. If no admissions are made, the CPS reviews the evidence and decides between charge and no further action.

What if the detainee was originally arrested for PWITS?

If the detainee was arrested for Possession With Intent To Supply and the offence is later changed to one of Possession, then the process can start with the test at Stage 3

7. The specificity of EDIT depends on the DTK. Training in the use of the DTK includes guidance regarding the appropriate charge or caution wording to be used.

2.2 Disputed Test Procedure

The disputed test procedure is where the EDIT process incorporates the staged reporting process. Significantly, the disputed test procedure was used only once in over 700 cases at the pilot sites during the evaluation period.

If a charged person⁸ contests the correctness of the DTK identification, a full forensic identification analysis can be completed.

The disputed test procedure is initiated if an accused person pleads not guilty at the first hearing and informs the court they are disputing the EDIT.

The Crown Prosecution Service (CPS) should then request a seven day remand pending the SCD forensic analysis. The CPS should inform the CJU who will retrieve the relevant exhibit from the property store. After completing the appropriate documentation (MGFSP) they should ask their forensic manager to authorise urgent analysis from a forensic provider.

The forensic scientist who carries out the analysis supplies the result in a statement. This is included in the case papers for the next court hearing.

This result supersedes the DTK EDIT result.⁹ It may be possible to claim the cost of the additional forensic analysis from the accused if they are found guilty. The court will decide whether or not it is appropriate to award costs to the police in these circumstances.¹⁰

The disputed test procedure can be initiated by the CPS at any stage if it considers it to be in the public interest.

It should be noted in the above EDIT staged reporting process that the police can also initiate a forensic analysis. This is when the EDIT result is negative and there are continued grounds to reasonably suspect the SCD is a controlled drug.

Police also have the discretion to submit an SCD for forensic analysis despite a positive EDIT. In these circumstances the person can still be charged. However, the investigating officer must make sure the result is known before the first hearing. This is so that the CPS, the defence, and the court are aware of the result.

See Appendix C regarding details of the disputed test procedure.

The disputed test procedure is initiated if an accused person pleads not guilty

8. The DTK identification should be treated as correct to make sure the arrested person does not misuse the disputed test procedure to delay prosecution. A case disposal decision should be made based on that evidence.

9. As an alternative the forensic analysis can be carried out before the first court case if it is known that the person challenges the DTK identification at charge. The disadvantage is that the analysis may be unnecessary because the person may have changed their mind by the time of the court case.

10. This is yet to be tested as there was only one disputed test procedure in the pilot and no costs were applied for. The argument is that the police investigation is complete prior to charge. The forensic test is for defence purposes.

2.3. Roles

Police officers and staff perform roles within the EDIT process. The process is outlined below for the benefit of those involved. They need only read the paragraphs that apply to them.

2.3.1 Arresting Officer

This process applies to drug possession arrests and investigations. It can also apply to an investigation that starts as PWITS but reverts to possession only case disposal.

The process allows a case disposal decision to be made without the arrested person being bailed to return pending forensic analysis.

The EDIT procedure must take place in a controlled environment within a police station.

The arresting officer, tester and the investigating officer can be the same person. Likewise they can be two or three different people.

There are two possible scenarios that result in an arrest for possession of a controlled drug:

- The arrest takes place in the street, premises, etc. away from the custody suite.
- The person is further arrested while in the custody suite. This will be normally be as a result of an authorised search, eg under section 54 PACE or section 18 PACE search.

EDIT

Any trained officer or member of police staff can undertake the EDIT. If the arresting officer doesn't do the EDIT themselves, they should tell the tester which drug(s) they suspect the substance to be.

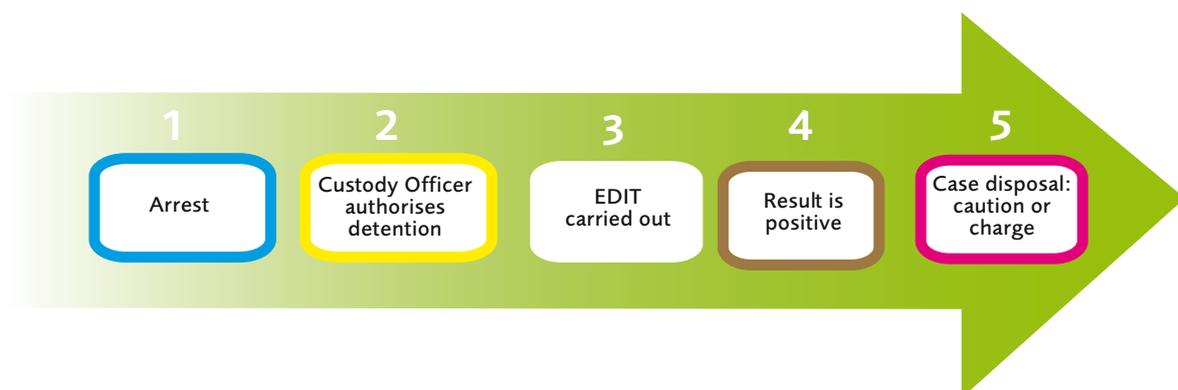
Scenario 1

The arrested person and SCD are taken to the custody suite. The evidence of arrest is given to the custody officer in the normal way. The booking-in procedure is completed including the authorisation for further searches.

Once this is done LiveScan; photographs; Drug Intervention Programme (DIP) drug testing; and DNA sampling take place as necessary. At this stage an EDIT should be carried out.

Scenario 2

The SCD can be seized during a search of an arrested person while in custody (section 54 PACE). Or it could be the result of a premises search while the person is in custody (usually section 18 PACE search). The EDIT should be carried out as soon as possible after the arrested person and the custody officer have been told of the further arrest.



Evidence

Continuity evidence regarding the suspected drug must be recorded; generally, this will be in the arresting officer or searching officer's notes. It should also be recorded in the statement of the person who carries out the identification test. Additionally the arresting officer is responsible for clearly outlining in the arrest notes the reasonable grounds for suspecting the substance is a controlled drug.

This is particularly important in the EDIT process as it adds validity to a positive test that can support a charge or caution. The reasonable grounds will include admissions, the way the substance is wrapped, where it was found and its appearance. In the case of cannabis, it will include its smell.

A taped interview may be unnecessary before caution or charge if the arresting officer's notes record admissions signed by the arrested person.

Significant wait for custody officer

An EDIT can be carried out before the detainee is presented to the custody officer if:

- the arrest has taken place outside the custody suite, and
- there is a significant wait at the police station for a custody officer, and
- a negative EDIT is likely to lead to a de-arrest and release.

The person should be de-arrested and released, unless they are under arrest for another offence, if:

- the EDIT is negative, and
- there are no reasonable grounds to suspect the substance is a controlled drug, and
- there is insufficient evidence to suspect the person has committed the offence of attempted possession.

The following must be completed:

- Notes of arrest;
- MG11 of drug identification procedure and result;
- disclaimer signed by the person arrested for the substance if it is not restored; and
- details for a skeleton custody record.

If the EDIT identifies a controlled drug the evidence will be given to the custody officer when available. Likewise if, despite the negative EDIT result, there are still grounds for the person to remain under arrest the person should be presented to the custody officer. The evidence of arrest and the negative test should be given, together with grounds for continuing to justify the arrest.

The EDIT procedure must take place in a controlled environment within a police station

What if there's a significant delay seeing the custody officer?

If a negative EDIT is likely to lead to a de-arrest and release then the test can sometimes be carried out earlier.

2.3.2 The Tester

This process applies to arrests and investigations of drug possession cases. It can also apply to an investigation that starts as PWITS but reverts to possession only case disposal.

The process allows a case disposal decision without the arrested person being bailed to return pending forensic analysis.

The EDIT procedure must take place in a controlled environment within a police station.

An EDIT can only be carried out by trained police officers or police staff (the tester) using Home Office approved drug testing kits (DTKs).

The arresting officer, tester and the investigating officer can be the same person. Likewise they can be two or three different people.

The tester is responsible for the continuity of evidence of the SCD.

They make sure that:

- they correctly take custody of the SCD;
- after the EDIT the remaining substance is sealed in a property bag, recorded and correctly stored;
- the SCD and property bag reference is properly recorded on the relevant custody record ; and
- the SCD is logged in the custody suite property register and put in the property cupboard.

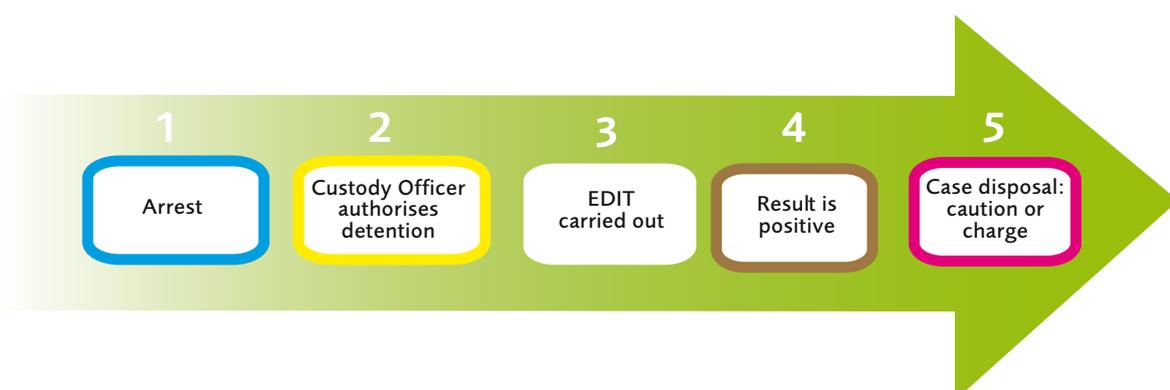
If the tester is not the arresting officer they must find out which drug the arresting officer suspects the SCD to be. If the EDIT is negative for that drug further EDITS can be carried out for other drug types. This should be done in consultation with the arresting officer and/or the investigating officer.

This must not be a fishing exercise. It must be consistent with the evidence that gave reasonable grounds to make the arrest. An MG11 (Appendix A) will be completed for each EDIT.

The tester must make sure they closely follow the training they have been given. That includes being diligent about health and safety, and cross-contamination issues.

The tester will give a completed MG11 to the investigating officer with the EDIT result(s). A copy, or copies, will be disclosed to the arrested person, their solicitor, and/or appropriate adult.

The tester is responsible for the continuity of evidence of the SCD



2.3.3 The Investigating Officer

This process applies to arrests and investigations of drug possession cases. It can also apply to an investigation that starts as PWITS but reverts to possession only case disposal.

The process allows a case disposal decision without the arrested person being bailed to return pending forensic analysis.

The EDIT procedure must take place in a controlled environment within a police station.

An EDIT can only be carried out by trained police officers or police staff (the tester) using Home Office approved drug testing kits (DTKs).

The arresting officer, tester and the investigating officer can be the same person. Likewise they can be two or three different people.

The tester gives the investigating officer the completed MG11(s) together with the EDIT result(s). The investigating officer discloses copy(ies) to the arrested person, their solicitor, and/or appropriate adult along with 'Notice to the arrested person regarding EDIT and the disputed test procedure' (Appendix B). This should be done as soon as possible after the EDIT and certainly before any taped interview takes place.

The process allows a case disposal decision without the arrested person being bailed to return pending forensic analysis

Negative EDIT result

A negative EDIT result will normally end the investigation of the controlled drug possession offence. However the offence of attempted possession should be considered. Submitting the SCD for forensic analysis should be considered if there is still strong circumstantial evidence that it is a controlled drug.

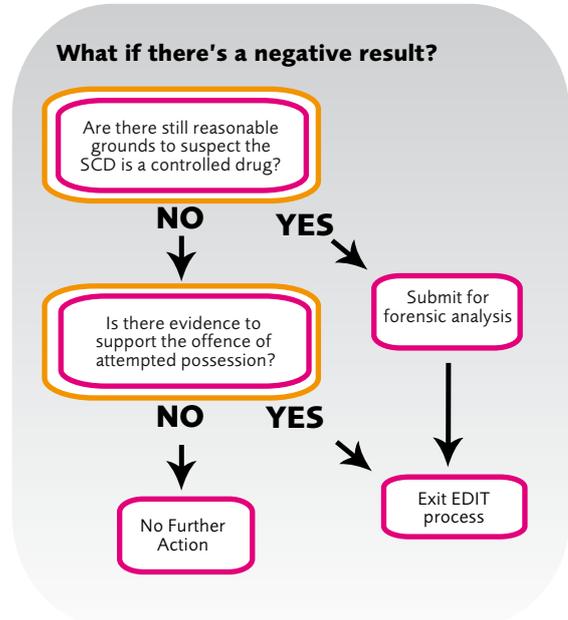
Positive EDIT result

If the EDIT result is positive, and the arrested person has made no admissions or refuses to sign the arresting officer's notes, the investigating officer is responsible for carrying out a taped interview.

A special warning should be given if the person refuses or fails to answer questions regarding the controlled drug in their possession.

The investigating officer presents the evidence to the Evidential Review Officer (ERO) once the interview is completed or the arrested person signs the arresting officer's notes.

The ERO determines on the appropriate case disposal.



2.3.4 Custody Officer

This process applies to arrests and investigations of drug possession cases. It can also apply to an investigation that starts as PWITS but reverts to possession only case disposal.

The process allows a case disposal decision without the arrested person being bailed to return pending forensic analysis.

The EDIT procedure must take place in a controlled environment within a police station.

An EDIT can only be carried out by trained police officers or police staff (the tester) using Home Office approved drug testing kits (DTKs).

The arresting officer, tester and the investigating officer can be the same person. Likewise they can be two or three different people.

The custody officer's role is to oversee the EDIT staged reporting process in the custody suite. Therefore they should have an overview of the whole process. The custody officer should familiarise themselves with the roles of the arresting officer, testing officer, investigating officer and evidential review officer (ERO).

The custody officer should be aware that the EDIT may have been done before booking-in. This can happen if there is a significant delay before the arrested person is presented to the custody officer.

If this results in the person being de-arrested, a custody record should still be completed. It should show the available details and that a negative EDIT result removed the grounds for detention.

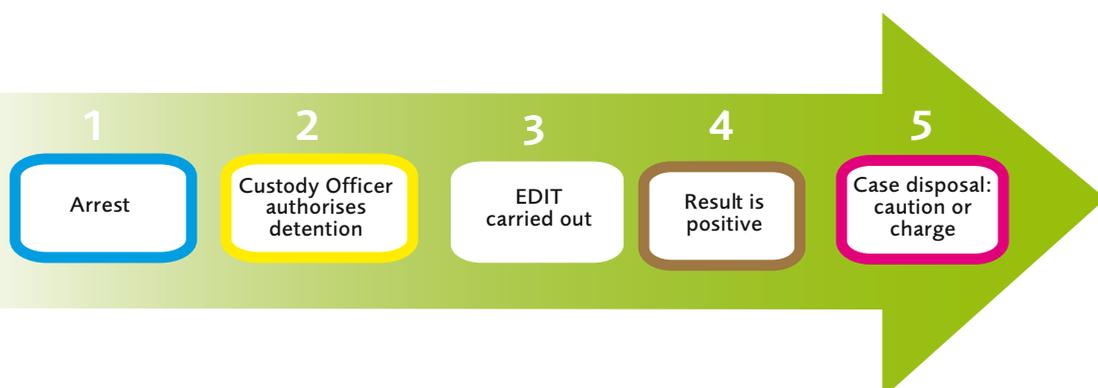
If the test is positive the grounds for arrest and authorising detention will be strengthened. It should be noted that a negative EDIT will not always result in de-arrest and release.

The following will justify bringing the arrested person to the custody officer:

- There are reasonable grounds to suspect an offence of attempted possession. (de-arrest for possession, re-arrest for attempted possession).
- There continue to be reasonable grounds to suspect the offence of possession of a controlled drug despite the negative EDIT.
- The person is under arrest for one, or possibly more, offences (de-arrest for possession).

If an EDIT has not been carried out, which will normally be the case, the custody officer should particularly ensure that the reasonable grounds to suspect that the substance is a controlled drug exist when authorising detention as this adds integrity to the EDIT process.

This process applies to arrests and investigations of drug possession cases



2.3.5 Evidential Review Officer (ERO) and the Crown Prosecution Service (CPS) lawyer

This process applies to arrests and investigations of drug possession cases. It can also apply to an investigation that starts as PWITS but reverts to possession only case disposal.

The process allows a case disposal decision without the arrested person being bailed to return pending forensic analysis.

The EDIT procedure must take place in a controlled environment within a police station.

An EDIT can only be carried out by trained police officers or police staff (the tester) using Home Office approved drug testing kits (DTKs).

The arresting officer, tester and the investigating officer can be the same person. Likewise they can be two or three different people.

Status of the Drug Testing Kit (DTK)

There are different types of DTK. A positive result for each type is considered to give enough drug identification evidence for a case disposal decision if there are sufficient grounds to reasonably suspect the substance is a controlled drug. This includes contested cases.

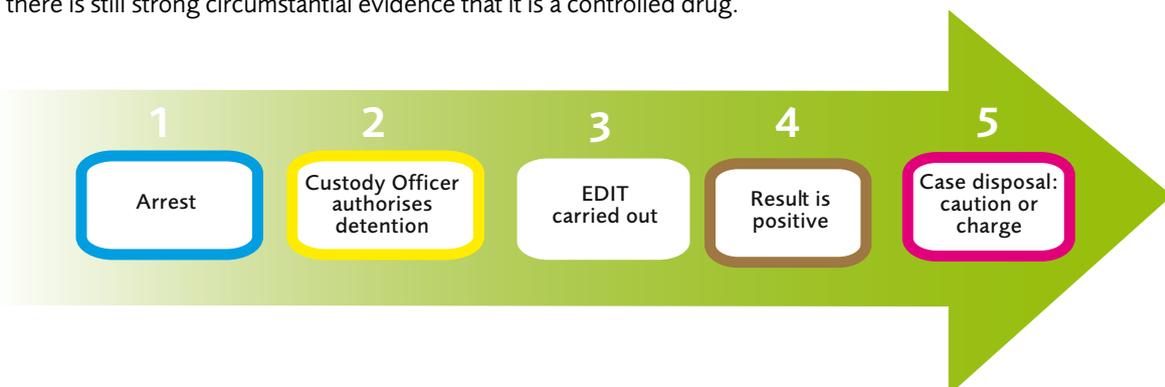
The reasonable grounds will include admissions, the way the substance is wrapped, where it was found, and its appearance. In the case of cannabis this includes the smell.

All those using the kits should be aware that they do not definitively identify the substance. Also the kits are not equivalent to examination of the substance by a forensic laboratory. The kit result is one piece in a jigsaw of information. If the pieces do not fit, and are not consistent with each other, the substance should be submitted for laboratory analysis.

The DTK should be seen as a way of confirming the arresting officer's reasonable suspicions. A person charged with the offence of possession of a controlled drug can initiate the disputed test procedure if they think the test result is wrong. They do this by notifying the court when they plead not guilty. This will result in quick-time forensic analysis while the case is remanded. The result of the second best possible test will supersede the first.

Negative EDIT result

A negative EDIT result will normally end the investigation of the controlled drug possession offence. However the offence of attempted possession should be considered. Submitting the SCD for forensic analysis should be considered if there is still strong circumstantial evidence that it is a controlled drug.



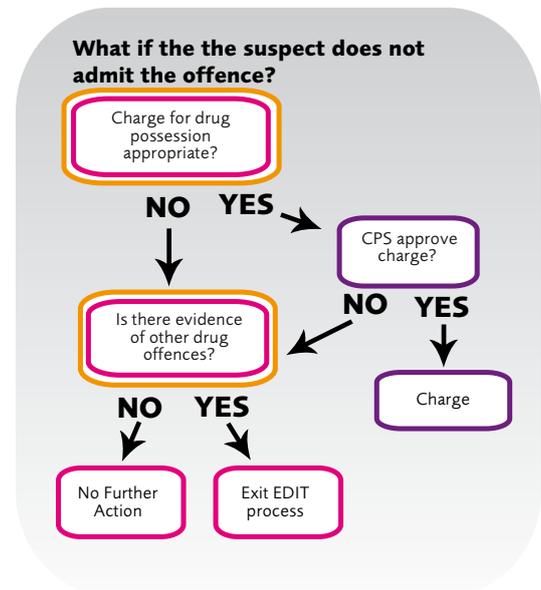
Case Disposal Decision

A case disposal decision can be made including charge if:

- the ERO is satisfied the evidence of possession is sufficient;
- the DTK identifies a controlled drug; or
- an experienced officer identifies cannabis (and there is no reason to doubt the accuracy of the identification); and
- the arrested person admits the offence of possession.

If the arrested person does not admit the offence the case should be referred to the CPS for a case disposal decision. This includes CPS Direct out of hours.

In most cases it will be the evidence of possession that is disputed. The CPS lawyer decides whether there is enough police evidence in the normal way. DTK identification, or identification by an experienced officer in the case of cannabis, could be disputed. In this situation a charge should still be approved unless there are reasons to doubt the accuracy of the identification¹¹. The arrested person has the opportunity to initiate the disputed test procedure after charge.



Case Papers

The ERO/CPS should expect the following list of evidence before a case disposal decision is made:

1. SCD seized by arresting officer and treated as an exhibit.
2. Notes of arrest from arresting and witnessing officers. They should provide evidence of possession, evidence to reasonably suspect the SCD is a controlled drug, and continuity evidence about the SCD. If necessary, they should also provide their statements based on these notes.
3. Stop/search record if relevant.
4. Tester's completed MG11(s).
5. Evidence that a copy of the tester's MG11(s) and the 'Notice to the arrested person regarding the EDIT result and the disputed test procedure' (Appendix B) has been disclosed to the arrested person.
6. Signed admission in arresting officer's notes or record of the interview.

11. If there is any doubt, the SCD should be submitted for forensic analysis.

Check List for CPS Lawyer – request for charge in contested case

1. Possession only?
2. Is there enough evidence of unlawful possession?
3. Does the circumstantial evidence of seizure, packaging and appearance support the controlled drug identification?
4. Has a trained tester made positive identification using an approved drug testing kit?
5. Has the arrested person or their representative been given 'Notice to the arrested person regarding the EDIT result and the disputed test procedure'? (Appendix B).

2.3.6 Police and Criminal Evidence (PACE) Inspector

This process applies to arrests and investigations of drug possession cases. It can also apply to an investigation that starts as PWITS but reverts to possession only case disposal.

The process allows a case disposal decision without the arrested person being bailed to return pending forensic analysis.

The EDIT procedure must take place in a controlled environment within a police station.

An EDIT can only be carried out by trained police officers or police staff (the tester) using Home Office approved drug testing kits (DTKs).

The arresting officer, tester and the investigating officer can be the same person. Likewise they can be two or three different people.

The PACE inspector supervises the custody suite and the custody officers. Therefore they should have an overview of the whole process provided by the guidance. The PACE inspector should familiarise themselves with the roles of the custody officer, arresting officer, testing officer, investigating officer and evidential review officer (ERO).

2.3.7 Custody Manager

This process applies to arrests and investigations of drug possession cases. It can also apply to an investigation that starts as PWITS but reverts to possession only case disposal.

The process allows a case disposal decision without the arrested person being bailed to return pending forensic analysis.

The custody manager should have an overview of the whole process. The custody manager is involved in the process in two ways:

- introduces and manages the EDIT procedures within the police station together with the forensic manager; and
- manages and supervises the custody officers.

EDIT Process

The custody manager is responsible for introducing and managing the following in conjunction with the forensic manager:

- training enough EDIT testers;
- identifying and equipping a suitable room where the EDIT should be carried out;
- re-stocking the drug testing kits (DTK); and
- making sure relevant forms are available.

2.3.8 Forensic Manager

This process only applies to arrests and investigations of drug possession cases.

The process allows a case disposal decision without the arrested person being bailed to return pending forensic analysis.

The forensic manager should have an overview of the whole process. The forensic manager is involved in this process in two ways:

- introduces and manages the EDIT procedures within the police station together with the custody manager; and
- introduces and manages systems to ensure fast-time forensic analysis of the drug exhibit when the disputed test procedure is initiated. This is done together with the CJU and property store managers.

EDIT Process

The forensic manager will be responsible for introducing and managing the following, together with the custody manager:

- training enough EDIT testers;
- identifying and equipping a suitable room where the EDIT should be carried out;
- re-stocking the drug testing kits (DTK); and
- making sure relevant forms are available.

Disputed Test Procedure¹²

The defence can initiate the disputed test procedure at the first court hearing when pleas are taken. It is the responsibility of the CPS to inform the CJU when the disputed test procedure has been initiated.

There must be a system to make sure the drugs exhibit is subject to fast-time analysis. This is the responsibility of the CJU manager together with the forensic and property store managers. The system makes sure the result is available at the next court hearing, in a statement from the forensic scientist who carried out the analysis. The remand will normally be for seven days.

The system is likely to include separate storage, by the property officer, of all drugs exhibits subjected to a charge of controlled drug possession until the court case is completed.

When the CPS notifies the CJU of a disputed test a dedicated person should:

- retrieve the exhibit from the property store;
- complete the necessary forms for forensic submissions;
- personally transport the exhibit to the forensic laboratory;
- submit with forms for fast-time analysis;
- wait until the analysis and statement from the forensic scientist is complete; and
- transport the exhibit, statement and other relevant paperwork back to the CJU.

The statement should then be placed in the case papers. The drug exhibit should be returned to the property store.

12. As an alternative the forensic analysis can be carried out before the first court case if it is known that the person challenged the DTK identification at charge. The disadvantage is that unnecessary analysis may be carried out because the person may have changed their mind by the time of the time of the court case.

2.3.9 Criminal Justice Unit (CJU) Manager

This process applies to arrests and investigations of drug possession cases. It can also apply to an investigation that starts as PWITS but reverts to possession only case disposal.

The process allows a case disposal decision without the arrested person being bailed to return pending forensic analysis.

The CJU manager should have an overview of the whole process. The CJU manager is involved in this process in two ways:

- manages the supervision of the case papers for court; and
- introduces and manages systems to ensure fast-time forensic analysis of the drug exhibit when the disputed test procedure is initiated. This is done together with the forensic manager and property store manager,

Case Papers

The following is a list of evidence needed for a court case:

1. SCD seized by arresting officer and treated as an exhibit.
2. Notes of arrest from arresting and witnessing officers. They should provide evidence of possession, evidence to reasonably suspect the SCD is a controlled drug, and continuity evidence about the SCD. If necessary, they should also provide their statements based on these notes.
3. Stop/search record if relevant.
4. Tester's completed MG11(s).
5. Evidence that a copy of the tester's MG11(s) and the 'Notice to the arrested person regarding the EDIT result and the disputed test procedure' (Appendix B) has been disclosed to the arrested person.
6. Signed admission in arresting officer's notes or record of the interview.
7. Documentary evidence of case disposal decision.
8. If the disputed test procedure is initiated, a statement from the forensic scientist with the secondary test result.

13. As an alternative the forensic analysis can be carried out before the first court case if it is known that the person challenges the DTK identification at charge. The disadvantage is unnecessary analysis may be carried out because the person may have changed their mind by the time of the time of the court case.

Disputed Test Procedure¹³

The defence can initiate the disputed test procedure at the first court hearing when pleas are taken. It is the responsibility of the CPS to inform the CJU when the disputed test procedure has been initiated.

There must be a system to make sure the drugs exhibit is subject to fast-time analysis. This is the responsibility of the CJU manager together with the forensic, and property store managers. The system makes sure the result is available at the next court hearing in a statement from the forensic scientist who carried out the analysis. The remand will normally be for seven days.

The system is likely to include separate storage by the property officer of all drugs exhibits subjected to a charge of controlled drug possession until the court case is completed.

When the CPS notifies the CJU of a disputed test a dedicated person should retrieve the exhibit from the property store. After completing appropriate documentation (MGFSP) they should arrange an urgent analysis from the appropriate forensic provider. They should do this through their forensic manager.

The result, detailed in a statement by the forensic scientist who carried out the analysis, is included in the case papers for the next court hearing. This result supersedes the DTK EDIT result. The drug exhibit is returned to the property store.

2.3.9 Criminal Justice Unit (CJU) Case Clerks

This process applies to arrests and investigations of drug possession cases. It can also apply to an investigation that starts as PWITS but reverts to possession only case disposal.

The process allows a case disposal decision without the arrested person being bailed to return pending forensic analysis.

The Criminal Justice Unit (CJU) case clerks should have an overview of the whole process.

Case Papers

The following evidence is needed for a court case:

1. SCD seized by arresting officer and treated as an exhibit.
2. Notes of arrest from arresting, and witnessing officers. They should provide evidence of possession, evidence to reasonably suspect the SCD is a controlled drug, and continuity evidence about the SCD. If necessary, they should also provide their statements based on these notes.
3. Stop/search record if relevant.
4. Tester's completed MG11(s).
5. Evidence that a copy of the tester's MG11(s) and the 'Notice to the arrested person regarding the EDIT result and the disputed test procedure' (Appendix B) has been disclosed to the arrested person.
6. Signed admission in arresting officer's notes or record of the interview.
7. Documentary evidence of case disposal decision.
8. If the disputed test procedure is initiated, a statement from the forensic scientist, with the secondary test result.

2.3.10 Property Store Manager

This process only applies to arrests and investigations of drug possession cases.

The process allows a case disposal decision without the arrested person being bailed to return pending forensic analysis.

The property store manager introduces and manages systems to ensure fast-time forensic analysis of the drug exhibit when the disputed test procedure is initiated. This is done together with the criminal justice unit (CJU) manager and forensic manager.

Disputed Test Procedure¹⁴

The defence can initiate the disputed test procedure at the first court hearing when pleas are taken. It is the responsibility of the CPS to inform the CJU when the disputed test procedure has been initiated.

There must be a system to make sure the drugs exhibit is subject to fast-time analysis. This is the responsibility of the CJU manager together with the forensic manager and property store manager. The system makes sure the result is available at the next court hearing in a statement from the forensic scientist who carried out the analysis. The remand will normally be for seven days.

The system is likely to include separate storage by the property officer of all drugs exhibits subjected to a charge of controlled drug possession until the court case is completed.

When the CPS notifies the CJU of a disputed test a dedicated person should retrieve the exhibit from the property store. After completing appropriate documentation (MGFSP) they should arrange an urgent analysis from the appropriate forensic provider. They should do this through their forensic manager.

The result, detailed in a statement by the forensic scientist who carried out the analysis, is included in the case papers for the next court hearing. This result supersedes the DTK EDIT result. The drug exhibit is returned to the property store

14. As an alternative the forensic analysis can be carried out before the first court case if it is known that the person challenges the DTK identification at charge. The disadvantage is that unnecessary analysis may be carried out because the person may have changed their mind by the time of the time of the court case.

Section 3 Approvals

3.1. EDIT Approval

ACPO, CPS and NPIA approve the EDIT process outlined in this guidance.

3.2. Approved Testers

The testers in the EDIT process must be approved. A person becomes an approved tester by passing an approved training course. Appendix D gives details of approved training.

3.3. Designated personnel approved to receive approved training

All police officers are eligible to receive approved training. Appendix E provides a list of designated police staff who can also receive approved training.

3.4. Approved Drug Testing Kits

The drug testing kits used in the EDIT process must be approved. Appendix F lists approved drug testing kits.

A system will be introduced to approve new kits after an evaluation process. Chief police officers will be updated with changes.

Witness Statement

(CJ Act 1967, s.9;MC Act 1980, ss.5A(3)(a) and 5B;MC Rules 1981, r.70)

Statement of

Age if under 18 'over 18' (if over 18 insert 'over 18') Occupation Police Officer

This statement (consisting of: 1 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything which I know to be false or do not believe to be true.

Dated:

Signature:

I am a police officer / member of police staff, trained by the Forensic Science Service in a manner approved by the Home Office, in the use of MARQUIS test kits (Evidential Drug Identification Test) for the testing of amphetamine, morphine and heroin.

On..... at hours I was on duty in the custody suite at.....police station when.....handed me exhibit.....number.....consisting of sealed in a property bag number

..... has informed me that there is evidence in this case to suspect thatis in possession of what appears to be a controlled substance and that the amount of such a substance is in keeping with 'personal use'

I have tested this item with Marquis reagent using the **BDH** test kit and have obtained the colour that I would expect from

At the conclusion of the test I repackaged the item and at.....hours handed it to.....in a sealed bag number

The test procedures, which apply to the *Evidential Drug Identification testing of substances within police stations for drug possession cases* were all adhered to, during which a contemporaneous record of the events, signed by myself, was made.

Signature:
MP 1199/01

Signature Witnessed by:

Notice to the arrested person regarding the Evidential Drug Identification Test (EDIT) result and the disputed test procedure

Notification of evidential drug identification test result

You should have been given a copy of a statement completed by the person who carried out the evidential drugs identification. This statement provides you with a formal, written record of the test result. You should be given a copy whether the test has been positive or negative.

Positive test result

A positive EDIT result provides sufficient identification evidence to allow a caution or, in the case of juveniles (persons under the age of 18) a reprimand or a warning.

A positive EDIT result also provides sufficient identification evidence to support an immediate charge in cases of unlawful possession of a controlled drug. This is the case even if you indicate an intention to deny the charge at court.

If you are charged with the offence of possession of a controlled drug and wish to deny the charge on the basis of the result of the evidential drug identification test being wrong then you should use the disputed test procedure. Details of how to do this are given below. If on the other hand you intend to deny a charge solely on the basis that you say you did not have the controlled drug in your possession, rather than the substance not being a controlled drug, then it is unnecessary for you to use the disputed test procedure.

Cannabis

In the case of cannabis the positive identification of an experienced police officer is sufficient to allow a charge, caution or in the case of a young person a reprimand or warning.

Using the disputed test procedure

You must say that you wish to use the disputed test procedure at your first appearance in court when pleading not guilty. You or more likely your solicitor must make it clear that you do not accept the EDIT result (or police officer identification of cannabis) as true and it is part of your defence that the substance is not a controlled drug. The CPS will then ask the court for a remand to allow a second test of the substance to be carried out by a forensic scientist. The result of the second test will replace the first identification. *If you ask for a second test and it is later proved that the first test was correct and you are found guilty, it will be at the discretion of the court whether to make an order against you for the extra costs involved.*¹

¹ The inclusion of this sentence is optional

Negative EDIT test result

A negative EDIT test result means that the testing officer is unable to positively identify a controlled drug in the substance. The police still have the option of investigating the offence of attempted drug possession on the basis that you took possession of the substance believing it to be a controlled drug. Alternatively, if there continues to be grounds to reasonably suspect that the substance is a controlled drug, the investigating officer has the option of sending the substance to a forensic laboratory for further testing.

Disputed Test Procedure

1. The Evidential Drug Identification Test (EDIT) is carried out by a trained person (tester) using a Home Office authorised Drug Testing Kit (DTK).
 2. The tester completes a statement using a template MG11 for each DTK used on the suspected controlled drug.
 3. If the tester is not also the investigating officer then the tester gives the MG11(s) to the investigating officer.
 4. Tester is responsible for the continuity of evidence of the suspected controlled drug. S/he ensures that they obtain the suspected controlled drug correctly and that the remaining substance is sealed in an evidential bag, recorded and stored correctly.
 5. The investigating officer provides the arrested person/solicitor/appropriate adult with a copy of the MG11(s) as soon as practical and certainly before any evidential interview.
 6. At the same time as doing this provides the arrested person/solicitor/appropriate adult with a notice explaining the EDIT and the disputed test procedure.
 7. If the EDIT is positive and the evidence of possession is sufficient even if the arrested person does not make admissions the person can be charged with possession of a specified drug.
 8. The disputed test procedure is initiated by the defendant pleading Not Guilty at court and notifying the court that the EDIT result will be challenged. The CPS can also initiate the dispute test procedure.
 9. The CPS will request an adjournment of the court for at least seven days.
 10. The CPS will inform the local Criminal Justice Unit (CJU).
 11. There must be a system in place to quickly retrieve the relevant exhibit from the property store and convey it to a forensic science laboratory for a quick-time analysis.
 12. A statement from the forensic scientist will provide the best possible identification evidence and supersede the result of the EDIT.
 13. It is the responsibility of the local CJU to ensure that statement is in the case papers for the next court hearing.
 14. If the first and second tests agree and the person is found guilty of possession then the court may include the price of the secondary test in the award of costs when sentencing.
- 

Approved training

In order to ensure the integrity of the EDIT process all drug test kit users must first have attended an approved training course. These courses are approximately four hours in length for new users and will cover all relevant aspects in the use of the kits including:

- Explanation of how the use of EDIT is applicable in 'possession only' drug cases
- Requirements of the Criminal Justice system including streamlined evidence reports and associated documentation
- Avoidance of contamination issues
- Demonstration and practice in using both Marquis reagent and immunoassay kits including the differing types of kit available from various manufacturers
- Correct procedures to be followed including interpretation of results
- Appropriate use of the kits and exclusions
- Health and Safety considerations including safe disposal of chemicals

Officers and staff previously trained in the use of these kits under previous 'guilty plea' arrangements may continue to use approved kits but are recommended to undertake an EDIT update course of approx. two hours duration.

Forces requiring training in EDIT should make arrangements direct with either of the two currently approved training providers

The Forensic Science Service Ltd

Priory House, Gooch Street North, Birmingham, B5 6QQ
Phone No. 0121 607 6800
e-mail: training@fss.pnn.police.uk

LGC Forensics Ltd

Queens Road, Teddington, TW11 0LY
Phone no. 020 8943 7000
e-mail: info@lgcforensics.com

Attendance on a qualifying course will be recorded by the training provider who will maintain a register of approved Police Officers and staff who have completed the course to the satisfaction of the training provider

Any other organisation wishing to deliver this training may make application to NPIA.

Acceptance as an approved training provider is subject to qualifying conditions which are obtainable on request from NPIA.

Categories of designated personnel approved to use drug testing kits

In addition to police officers the table below details categories of police staff who are approved to undertake testing using the kits detailed in Appendix F of this document. All staff must undertake an approved training detailed in Appendix D course before using the kits.

Central Drugs Store Officer
Chemical enhancement staff
Crime Scene Investigators
Custody Assistants
Custody Detention Officers
Custody Investigation Officers
Divisional Drugs Liaison Officer
Drugs Intelligence Officers
Drugs Liaison Officers
Drugs Squad Officers
Fingerprint & fingerprint development lab staff
Forensic laboratory services staff
Forensic submissions staff
Forensic Practitioners
Forensic Technicians
Police Community Support Officers
Police Staff Investigators
Scenes of Crime Officers
Scientific Intelligence Officers
Search Team members
Special Constabulary
Volume Crime Scene Examiners

Approved Drug Testing Kits

The following drug testing kits have been approved for use in custody situations under the EDIT process to establish whether or not substances are controlled under the Misuse of Drugs Act 1971.

The below listed drug testing kits can only be used by approved personnel. These are listed at Appendix E.

In addition all those approved personnel must have undertaken an approved training course detailed in Appendix D.

The testing of drugs, particularly powders whilst utilising any of the below listed kits require knowledge of relevant health & safety considerations. Particular care must be taken with the colour change kits as they have additional risks of glass and chemicals. Appropriate guidance and advice will be given during the approved training courses and included within the training manual, provided at the conclusion of the training course.

Morphine, heroin and amphetamine:

- a) **BDH Marquis test kit** (product number 32176 1U)
marketed by VWR International Ltd, Hunter Boulevard,
Magna Park, Lutterworth. LE17 4XN
Phone: 0800 223344 e-mail: uksales@uk.vwr.com
- b) **MMC Opiate/Amphetamine test**
marketed by Crack-Down Drug Testing, Unit11, Boarshurst Business Park,
Boarshurst Lane, Greenfield, Saddleworth, OL3 7ER
Phone: 01457 877988 e-mail: crackdownsales@aol.com
and Tetra Scene of Crime Ltd, Hygro Farm, Kennel Lane,
Billericay, Essex CM11 2SU
Phone: 01277 626100 www.tetrasoc.com
- c) **NIK Marquis reagent kit**(product number 6071A)
marketed by Tetra Scene of Crime Ltd - details as above

Cocaine:

- d) **Cozart Cocaine test kit** marketed by Cozart Bioscience Ltd,
45 Milton Park, Abingdon, OX14 4RU
Phone: 01235 861483 www.cozart.biz www.concateno.com
- e) **Drug-ID cocaine test kit**
marketed by Dtec International Ltd.
PO Box 13, Lytham St Annes, Lancashire FY8 1GE
Phone: 0800 371898 www.dtecinternational.com

Section 5 Glossary

EDIT	Evidential Drug Identification Test
CJSSS	Criminal Justice Simple, Speedy, Summary
DTK	Drug Testing Kit
SCD	Suspected Controlled Drug
ERO	Evidential Review Officer
CPS	Crown Prosecution Service
DIP	Drug Intervention Programme
PWITS	Possession with intent to supply
MG11	Statement form
MGFSP	Forensic exhibit submission form

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