

Interviewing Suspects



A webinar presented by:


Dr Andy Bowles

Attendee Notes



Interviewing Suspects

A webinar by
Dr Andy Bowles, Solicitor



abc Food Law
Consultancy, training and legal services

This webinar will cover.....

- PACE Codes of Practice
- Preparing for Interview
- Conduct of Interview
- Special arrangements

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Interviewing suspects

- PACE Codes of Practice
- Preparing for Interview
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Background

- Police and Criminal Evidence Act 1984
 - Introduced to ensure fairness of Criminal Investigations
 - Detailed requirements provided in Code of Practice.
- Codes of Practice
 - Issued under Articles 66 of the Act.
 - Issued by Home Secretary.
 - Must be approved by both Houses of Parliament



Code of Practice

- Code of practice aimed at Police Officers but all persons charged with undertaking criminal investigations must have regard to its provisions. (s.67(9) Police and Criminal Evidence Act 1984)
- **R v Elson**
PACE codes are there to protect suspects against the overwhelming power of the state, and must be followed. (Times 30-Jun-1994)



Code of Practice

- Divided into Eight sections:
- A: Stop and Search Powers
- B: Searching of premises
- C: Detention, treatment and questioning
- D: Identification of persons
- E: Audio recording of interviews
- F : Visual Recording with Sound
- G: Statutory powers of arrest by police officers
- H: Detention etc of suspected terrorists.

PACE Code C

- Code of Practice for the Detention, Treatment and Questioning of Persons
- Code includes –
 - Rights for persons interviewed voluntarily
 - The Caution
 - Conduct of Interview,
 - Records of interview
 - Interviewing Juveniles and mentally vulnerable
 - Use of Interpreters



PACE Code E

- Code of Practice on Audio Recording Interviews with Suspects
- Code includes –
 - Provisions for master recordings and security
 - Conduct of the Interview
 - Commencement
 - Caution
 - Changing recording media
 - Breaks in Interview
 - Conclusion of interview



PACE Code F

- Code of Practice on Visual Recording with Sound of Interviews with Suspects
- Code includes –
 - Provisions for master recordings and security
 - Conduct of the Interview
 - Commencement
 - Caution
 - Changing recording media
 - Breaks in Interview
 - Conclusion of interview



Interviewing suspects

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PACE Interview

- Definition:
- “Questioning of a person regarding their involvement or suspected involvement in a criminal offence.” para 11.1A Code C

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Purpose of Interview

- To provide suspect with opportunity to put his/her version of events
- To gather evidence
- To clarify matters
- To aid in the enforcement decision making process

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Preparation For Interview

- Be clear about:
 - Identity of suspect(s)
 - Nature of offence(s)
 - Existing evidence
 - Areas requiring clarification

- Above all.....

What are the "Facts in Issue?"



Pre-interview disclosure

- The decision on what and when pre-interview disclosure is to be given is the responsibility of the investigating officer
- Pre-interview disclosure should be pre-planned and should form part of the planning for the interview itself
 - A record should be kept



PEACE Model

- P – Preparation and planning
- E – Engage and explain
- A – Account
- C – Closure
- E – Evaluate



Important Considerations

- Conduct of interview must be fair (S78 PACE)
- Any record of interview must be accurate and fair.
 - In any proceedings a court may refuse to allow evidence on which the prosecution proposes to rely if it appears to the court that, having regard to all the circumstances, including the circumstances in which the evidence was obtained, the admission of the evidence would have such an adverse effect on the proceedings that the court ought not to admit it.
- (s78 PACE1984)



Equipment required



Microphone



Tapes / CDs / DVDs

- Master
- Working
- Copy



Tapes / CDs / DVDs

- Master :
 - Sealed in presence of suspect
 - Subject to rules of Documentary Evidence
 - Can only be opened in presence of suspect/legal representative
 - Can be played in court
- Working :
 - Working copy from which transcripts etc made
- Copy made for suspect



Equipment Required

- Sufficient sealed Master, Working and Copy media
- Master media seals
- PACE codes
- Notice to persons... form
- Exhibits (labelled/referenced)
- S.10 statement form
- Notebook
- "Do not Disturb - Interview in Progress" sign

- Also: Senior Manager



Interviewing suspects

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Conduct of Interview

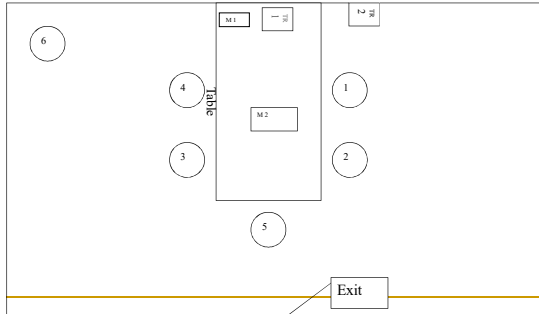
- Best to undertake in the office
 - Control over environment
 - Safety of Officers
 - Fairness:
- Mod Ali Bin Burut et al v Public Prosecutor (Brunei)**
Interview whilst suspect manacled and hooded was plainly oppressive!
Times
28-Apr-1995

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Conduct of Interview



Room Layout (Recorded Interview)



Conduct of Interview

- Preferably two Officers present
 - Separate roles
- Preliminaries:
 - Discuss nature of interview and introduce equipment/forms (Not evidence at this stage)
 - Ensure suspect clear about purpose of interview



Roles of Officers

- | <u>First Officer</u> | <u>Second Officer</u> |
|----------------------|--|
| ■ Lead Officer | ■ Support role |
| ■ Asks questions | ■ Checks procedure |
| ■ Controls equipment | ■ Monitors interview <ul style="list-style-type: none">□ Relevant questions□ Breaks |
| | ■ Handles exhibits |
| | ■ Scribes written record |



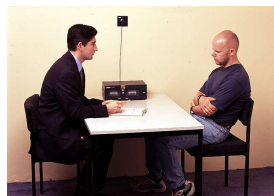
Conduct of Interview

- Provide "Notice to Person whose interview will be recorded"
- Request that this is read/signed
- Break seal on media and insert into machine
- Start machine



Conduct of Interview

- Introduce interview then:
 - Name and occupation
 - Identify location
 - Date and time of interview
 - Invite others in room to identify themselves
- Record these details in Note book



Conduct of Interview

- Advise suspect:
 - Not under arrest and may terminate the interview at any time
 - May have a legal representative present
 - Confirm ok to proceed if absent
 - If present, remind suspect of their role
 - That interview is being recorded
 - ask if they object
 - If "yes" - hand written record
 - Draw suspects attention to "Notice.." signed prior to interview

Conduct of Interview

- Clarify personal details of suspect:
 - Trading name
 - Registered Office
 - Partner details

- Advise suspect of reason for interview:



Conduct of Interview

- At this point the Caution is given:
“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”

Para 10.4 Code C



The Caution

- ***“A person whom there are grounds to suspect of an offence must be cautioned before any questions about an offence, or further questions if the answers provide the grounds for suspicion, are put to them if either the suspect’s answers or silence may be given in evidence to a court in a prosecution.”***
- Para 10.1 Code C
- (Note : Emphasis not in original text)



The Caution

- Caution need not be given if:
 - to establish identity
 - To obtain information in accordance with statutory provision
- Can ask questions and then put them under caution at a later date.



Conduct of Interview

- Note time caution given in notebook
- Ask suspect "Do you understand?"
 - If "no", explain caution in simple language
 - Use pro-forma
- Ask relevant questions
- Produce relevant exhibits
 - Remember always describe for purposes of the tape



Prepared Statements

- Alternative to "no comment" interview but..
- Signed and dated
- Stop the interview, read it and consider your interview questions
- Re-commence the interview and identify gaps
- Continue with questioning after confirming whether interviewee agrees with contents



Conduct of Interview

- Breaks in Interview
 - CoP requires break every 2 hours
 - "Break in interview at (time) because..."
 - Machine stopped
 - Media removed
 - Master sealed
 - Record break in notebook



Conduct of Interview

- Resumption of Interview
 - Record time in notebook
 - Use new media
 - "Interview of ... recommenced at (time/date/place) Persons present...."
 - Remind suspect that still under caution
 - May be necessary to confirm nothing untoward happened during break.

Conduct of Interview

- Interruptions
 - Should be avoided
 - If someone enters,
 - identify them and
 - get them to explain reason for entering



Conduct of Interview

- Conclusion of interview
 - Advise suspect that they may clarify or add to what they have already said.
 - State " I am suspending/terminating the interview, it is now (time)"
 - Switch off machine, remove media, seal master
 - Suspect/representative sign master label
 - If refuse to do so, request senior officer to attend and sign label



Record of Interview

- Record in notebook:
 - Fact that interview took place
 - Place, date, time of interview
 - Start, finish, duration of interview
 - Identification numbers of tapes/discs
 - Identity of persons present
 - Any breaks
 - Any comments made outside of interview by suspect.
 - Refusal of suspect to sign any documents



Conduct of Interview

- Record in Notebook
 - Time references/tape counter for:
 - Any significant admission
 - References to involvement of others
 - References to possible defence
 - Any significant silences
 - Matters raised as mitigation



Conduct of Interview

- Interview must cease when officer in charge:
 - Is satisfied that all relevant questions have been put.
 - Has taken into account all other available evidence
 - Reasonably believes that evidence is sufficient to provide a realistic prospect of conviction.



Summary and Transcripts

- Made to assist in decision to prosecute
- Must be:
 - Objective
 - Fair
- If admissions made, recorded in full together with whole question



Presentation as Evidence

- Lead officer produces witness statement and exhibits:
 - Master tape/disc
 - Transcript
- Written records must be exhibited by maker



Copies of Interview

- Suspect can request copy
- Best Practice to provide copy at end of interview



Interviewing suspects

PACE Codes of Practice

Preparing for Interview

Conduct of Interview

Special arrangements



Use of Interpreters

- Para 13.2 CoP C
- Person should not be interviewed in absence of interpreter if:
 - He has difficulty in understanding English
 - Interviewing officer cannot speak his language
 - the person wishes an interpreter to be present



Use of Interpreters

- Recommend DPSI* qualified interpreters.
- National Register of Public Service Interpreters : 020 7940 3150

- *Diploma in Public Service Interpreting



Juveniles and Mentally Vulnerable

- “A juvenile or person who is mentally disordered or otherwise mentally vulnerable
 - must not be interviewed regarding their involvement or suspected involvement in a criminal offence or offences,
 - or asked to provide or sign a written statement under caution or record of interview,
 - in the absence of an **appropriate adult**”.

PACE Code C – 11.15



Appropriate Adult

- In case of a Juvenile
 - Parent or Guardian
 - Social Worker of a Local Authority
 - Failing these, a responsible adult over 18 (not employed by Local Authority)
- In case of mentally vulnerable
 - Relative, guardian or person responsible for their care
 - Someone experienced in dealing with mentally vulnerable persons (not employed by Local Authority)
 - Failing these, responsible adult over 18 (not employed by Local Authority)



Role of Appropriate Adult

- If an appropriate adult present, they shall be informed
 - That they are not expected to act simply as an observer; and
 - The purpose of their presence is to:
 - Advise the person being interviewed
 - Observe whether the interview is being conducted properly and fairly
 - Facilitate communication with the person being interviewed



Summary

PACE Codes of Practice

Preparing for Interview

Conduct of Interview

Special arrangements



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