



ACPO Position Statement:

Voluntary Interviews

National Investigative Interviewing

Strategic Steering Group (NISSG)

November 2012

Introduction

The revised Police and Criminal Evidence Act 1984 (PACE), Code G (implementation date 12th November 2012) demands more detailed consideration of the 'necessity criteria' by arresting officers than has previously been the case. This represents a cultural shift in policing that places more emphasis on the use of alternatives to arrest and, specifically, on increasing the use of voluntary interviews under caution.

This document provides practical guidance to officers planning and conducting a voluntary interview under caution. The necessity to arrest criteria is the subject of a separate ACPO Investigative Interviewing Steering Group positional statement.

The ACPO NI ISSG Position

Code G requires officers to *consider* whether the suspect's voluntary attendance is a practical alternative to arrest, but nothing in the revised Code reduces the significance of a suspect's interview in the conduct of an effective investigation. Once a decision has been taken under Code G that a Voluntary Interview is appropriate rather than arrest the issues that follow should be considered.

Voluntary Interviews

There will be many occasions where a voluntary interview under caution is the most sensible and proportionate course of action. Voluntary interviews should be planned and conducted as thoroughly as they would for a suspect under arrest including:

- The explanation of the reason for the interview to be given to the suspect, ensuring no questioning about the offence is conducted outside of the formal interview;
- The explanation of why arrest is not considered necessary, ensuring there is no suggestion of coercion or misunderstanding that could lead to allegations of oppression or unfairness;

- The arrangements for obtaining legal advice;
- Identifying any vulnerability and facilitating any special requirements for the interview which would be considered if the suspect was under arrest, such as the use of an appropriate adult or an interpreter;
- Identifying the purpose of the interview with clear aims and objectives, these are an important point of reference should the suspect later withdraw their consent to be interviewed;
- Carefully planning the interview with a comprehensive strategy and a planned release of information that will assist the process. Decisions on what evidence and/or information to give to the suspect and their legal advisor before interview are still relevant to voluntary attendance.

Information Supplied to the Suspect

While balancing the need to supply sufficient information for a person to make an informed decision, when arranging a voluntary interview investigators must confine themselves to a factual exchange of information and avoid entering into a dialogue which could be construed as coercive or an interview outside the safeguards of PACE. Answering questions about the logistics and practicalities of the proposed interview does not amount to questioning for the purpose of ascertaining the person's involvement or suspected involvement in the offence but asking questions about the evidence would amount to questioning for such a purpose.

Suspects should be informed:

- Of the nature of the alleged offence including when and where it was committed;
- That to properly investigate their suspected involvement they *must* be interviewed under caution;

- That, in the circumstances, their arrest may not be necessary if they attend at the police station voluntarily to be interviewed;
- That if they attend voluntarily they will be entitled to free legal advice before the interview and to have a solicitor present during the interview;
- The date and time of the interview will take account of their circumstances and the needs of the investigation; and
- If they do not agree to attend voluntarily at a time which meets the needs of the investigation, or having so agreed they fail to attend, or having attended they fail to remain for the interview to be completed, their arrest may be necessary to enable them to be interviewed.

Information supplied to the person on the reasons for the interview must be sufficient for them to make an informed decision and should be consistent with what would be supplied to a person on arrest. This does not, however, extend to supplying detailed information about the investigation that has given rise to the reasonable suspicion.¹

Legal Advice

A person interviewed voluntarily under caution is entitled to legal advice. No effort should be made to dissuade the person from seeking such advice² and arrangements may be made prior to the interview if practical.

Code G is clear that when legal advice has been requested, for a voluntary interview conducted at a police station *or elsewhere*, the interviewer is responsible for securing its provision without delay by contacting the Defence Solicitors Call Centre (DSCC).³ This means, therefore, that suspects are entitled to legal advice if they are interviewed at home and interviewers should comply

¹ PACE Code G, (Note 3).

² PACE Code C, paragraph 6.4.

³ PACE Code C, paragraph 3.21.

with their individual force policy regarding allocation of unique reference numbers for voluntary interviews conducted elsewhere than at a police station.

Conducting the Interview

An accurate record should be made of the time a voluntary attendee arrives at the police station as this may impact upon custody procedures should their later arrest be necessary during the interview process.

When a person attends the police station voluntarily to be interviewed by arrangement, their arrest on arrival at the station prior to interview would only be justified if new information has come to light after the arrangements were made which indicates voluntary attendance has ceased to be a practical alternative, their arrest is necessary and it was not reasonably practicable for the person to be arrested before they attended at the station.⁴

The revised Code G clarifies the necessity to arrest versus necessity to interview debate which was often influenced by what action to take should the suspect leave the interview before its completion. In these circumstances the police are entitled to consider whether arrest is necessary to carry out or to complete the interview, this is a matter of judgement and will depend on whether the objectives of the interview have already been achieved.

As with persons under arrest a pre-interview disclosure briefing (PIB) should be provided to any legal representative prior to interview. The content of the briefing remains a matter for the interviewing officer to be decided on a case-by-case basis. Pre-interview briefings should not be provided to unrepresented suspects at any time, including when making arrangements with suspects for voluntary interviews.

The timing of the interview and its objectives in the context of the investigation should significantly influence decision making concerning the status of the interviewee. For example, if the decision is taken not to arrest but to obtain an early voluntary account under caution from the suspect (to focus the enquiry)

⁴ PACE, Code G, (Note 2G).

there may be limited information available to disclose to the suspect, possibly little more than the offence under investigation, the purpose of the interview and there being no necessity to arrest.⁵

The conduct of a voluntary interview (with the exception of special warnings) is no different to that of a person under arrest and should be completed accordingly to achieve clear relevant objectives.

In conclusion the impact of Code G does not reduce the significance of a suspect's interview nor should it reduce its quality. The necessity to arrest and the necessity to interview are entirely separate and matters of professional judgement to be exercised on a case-by-case basis.

Acknowledgement

This position statement was prepared by DCI Steve Hibbitt, an ACPO Approved Interview Adviser from Humberside Police.

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⁵ PACE Code G, (Note 3).