



Home Office

Interviewing suspects

Version 9.0

Contents

Contents.....	2
About this guidance.....	6
Contacts	6
Publication	6
Changes from last version of this guidance	7
Interviews: definition and the law	8
Definition of an interview.....	8
Protection of human rights.....	8
When you can interview a suspect.....	10
Fitness to Interview.....	10
When you can interview the person.....	10
When the period of 24 hours starts from.....	10
Extensions to the 24-hour clock	11
Defining interruptions to the period of rest.....	11
Exceptional circumstances when you can interview a suspect who is unfit.....	12
Urgent interviews.....	12
Interviewing at a Police Station.....	12
Interviewing away from a Police Station	13
Urgent interviews and the law.....	13
Interview conditions and audio equipment	14
Interview conditions	14
Using audio discs of the interview in court.....	14
Recording equipment	15
Portable CD recorder.....	15
When you have completed the interview	15
If there are necessary grounds for arrest during the interview	15
DVD recording of interviews	15
Recording of interviews by secure digital network.....	17
Commencement of interviews by secure digital network	17
Taking a break during an interview on a secure digital network	17
Conclusion of a secure digital recording	18
Audio recording of interviews	19
Interviews that must be audio recorded.....	19
Reasons not to use an audio recording of an interview	19

Informing custody (removable media).....	20
Using police facilities.....	21
Using police audio recording facilities (removable media).....	21
Access to master discs or secure digital recordings held by the police	21
Pre-interview disclosure or briefing	23
What can happen if you do not give pre interview disclosure or pre interview briefing.....	23
Completing the pre interview disclosure	23
What not to include in pre interview disclosure	24
When a suspect is not represented	24
Planning an interview	26
The 'PEACE' interview model.....	26
The interview plan.....	26
Starting and conducting an interview.....	28
At the start of an interview (removable media)	28
Objections to recording.....	28
Wording at the start of the interview.....	29
Wording to use for interview (aide-memoire)	29
If the person does not, or you doubt, they understand.....	30
Wording about legal advice in the interview.....	31
Confirm any statements made before the interview.....	31
During the interview.....	32
If the recording equipment or removable media becomes faulty	32
If the recording equipment becomes faulty on a secure digital recording network	32
Information not relevant to the offence	33
Breaks during an interview	34
If the suspect leaves the room during interviews using removable media (discs).	34
Using bad character evidence.....	36
Note taking in interviews	37
Mandatory notes	37
Discretionary notes	37
Interpreters in an interview	39
Live link interpretation.....	40
The person is making a statement in a language other than English	40
The person is deaf or you doubt their hearing or speaking ability.....	40
The person is a juvenile.....	40
No comment interview and prepared statements	41

Prepared statements: a definition	41
Before interview	41
During interview	41
Once they have read out the prepared statement	41
If the solicitor or legal representative refuses to give you a copy.....	42
Questions to ask during interview	42
Allegations of misconduct and complaints.....	43
Concluding an interview	44
Voluntary attenders	46
Voluntary attender: the legal definition.....	46
Voluntary attender (VA): Initial risk assessment	46
Initial action at the start of interview.....	47
Free legal advice	48
Voluntary Attender (VA) pre-departure risk assessment.....	48
Arresting a voluntary attender.....	49
Interviewing juveniles and the vulnerable.....	50
Juvenile	50
Appropriate adults.....	50
Important factors.....	51
Interviewing juveniles at their place of education.....	51
Interviewing defence witnesses.....	53
Interviewing prisoners	54
Categories of prison interviews.....	54
Before the prison interview takes place	54
Interviews with prisoners in prison.....	55
Interviews outside of prison	55
Other factors.....	55
Summary of an interview	57
The purpose of the summary.....	57
Preparing the summary	57
Content of the summary	57
Transcription of an interview	59
Accuracy of the transcript	59
Access to interview discs	60
Access to master disc.....	60
Right of access by the defence.....	60
Defendants who are not legally represented	60

Access to the copy disc	61
Editing and disposing of discs	62
Editing discs	62
If material in a disc is sensitive (for security or investigative reasons)	62
Disposing of or discs.....	62
Court procedures	63
Single Point of Contact (SPOC) for persons in prison detention	64

About this guidance

This guidance tells you about the Home Office's roles and responsibility when interviewing suspects. This guidance is for officers in criminal and financial investigation (CFI) teams and suitably trained and accredited criminal investigators within the Home Office.

It is based on the [Police and Criminal Evidence Act \(PACE\) 1984](#) instructions for interviewing suspects.

It includes:

- a definition of interviewing suspects and the governing law
- what to do before, during and after an interview
- how to store, use and dispose of the discs
- voluntary attenders
- interviewing prisoners
- single point of contact (SPOC) for prison production orders (PPO)

The Home Office has a duty to safeguard vulnerable people and promote the welfare of children for more information see: [Vulnerable adults and children](#).

Criminal Investigators in Immigration Enforcement must be aware of their obligations under the UK General Data Protection Regulation (UK GDPR) and Part 3 of the Data Protection Act 2018 see: [IE CFI Data protection policy](#) also see: [General data protection guidance](#).

Authorised Professional Practice (APP) national guidance has also been provided on [Investigative interviewing](#) by the College of Policing on all aspects of interviewing.

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email CFI Operational Capability and Compliance Enquiries.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

Publication

Below is information on when this version of the guidance was published:

- version **9.0**
- published for Home Office staff on **31 August 2023**

Changes from last version of this guidance

- general house keeping
- updated links
- addition of Notice to suspect - copy of recorded interview form

Related content

[Contents](#)

Interviews: definition and the law

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the definition of an interview, the legislation you need to be aware of and about conducting interviews under caution.

Definition of an interview

Section 11 of Code C of the [Police and Criminal Evidence \(PACE\) Codes of Practice](#) and Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE (NI)) Codes of Practice define an interview as:

“...the questioning of a person regarding his involvement, or suspected involvement, in a criminal offence or offences which, by virtue of paragraph 10.1 of Code C, is required to be carried out under caution”.

You must be aware of the provisions relating to interviews contained in Code C of the PACE or PACE (NI) Codes of Practice; in particular sections 11 to 13.

Protection of human rights

You must be aware of the following provisions of the [Human Rights Act 1998](#) when you interview the suspect:

- [Schedule 1 Article 3 Human Rights Act 1998](#) prohibition of torture:
 - no one shall be subject to torture or inhuman, degrading treatment or punishment
- [Schedule 1 Article 5 Human Rights Act 1998](#)– right to liberty and security:
 - everyone arrested has the right to be informed, in a language they understand, of the reasons for the arrest and of any charge made against them
- [Schedule 1 Article 14 Human Rights Act 1998](#) prohibition on discrimination:
 - the convention rights shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status

If you are interviewing you must:

- exercise professionalism and integrity before, during and after investigative interviews
- respect the human rights of the individual
- make sure no evidence is obtained in circumstances that could result in evidence being ruled later as inadmissible

The consequences of evidence later being ruled inadmissible are:

- failed prosecutions
- it fails to serve the best interests of victims
- it undermines public confidence in the Home Office

Related content

[Contents](#)

When you can interview a suspect

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the rules on when you can interview a suspect, exceptional circumstances which may delay interviewing suspects and about urgent interviews.

Fitness to Interview

A person is fit to be interviewed when they can understand the importance of questions put to them and their answers.

If a person is unable to appreciate the importance of questions put to them and their answers because of alcohol or drugs, they are considered unfit to interview and you must not question them about an alleged offence until they are fit, unless certain criteria is met. See Urgent Interviews.

When you can interview the person

In any period of 24 hours, you must allow a detained person a continuous period of at least 8 hours:

- for rest
- free from questioning
- where they are not travelling to or from custody stations
- free from interruption by officers in connection with the investigation concerned

The continuous period of at least 8 hours should normally be at night, although it can happen during the day if the suspect has been up all night and has not had any sleep.

The period of rest may not be interrupted or delayed, except at the request of the person being interviewed, an appropriate adult or their legal representative, unless there are reasonable grounds for believing it would:

- involve a risk of:
 - harm to people
 - serious loss of property
 - damage to property
- unnecessarily delay the person's release from custody or
 - otherwise prejudice the outcome of the investigation

When the period of 24 hours starts from

[Section 41 Police and Criminal Evidence Act 1984](#) outlines when the period of detention of a person, the relevant time, is calculated from as:

- the time at which that person arrives at the relevant police station; or

- the time 24 hours after the time of that person's arrest, whichever is the earlier

If the person is arrested outside England and Wales, the relevant time starts at either:

- the time at which that person arrives at the first police station to which they are taken in the police area in England or Wales in which the offence for which they were arrested is being investigated
- 24 hours after the time of that person's entry into England and Wales, whichever is the earlier

In the case of a person who attends a police station voluntarily and is arrested at the police station it is the time of their arrest.

Extensions to the 24-hour clock

A superintendent may authorise an extension of detention without charge under section 42 [PACE Code C 2019](#) up to a period of 36 hours, subject to certain criteria being met:

- the detained person is arrested for an indictable offence
- the superintendent has reasonable grounds for believing it is necessary to secure and preserve evidence relating to the offence they are arrested for
- the investigation is being conducted diligently and expeditiously

Further extensions can be applied for to a magistrates' court who will hear an application under section 43 of PACE for a warrant of further detention without charge and to hear applications under section 44 to extend a warrant of further detention by up to 96 hours.

Defining interruptions to the period of rest

The following situations are not considered interruptions to the rest period and a new rest period is not needed.

Any action required to be taken:

- in accordance with:
 - conditions of detention
 - medical advice
- at the request of the:
 - detained person
 - appropriate adult
 - legal representative

Related content

[Contents](#)

Exceptional circumstances when you can interview a suspect who is unfit

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the exceptional circumstances when you can interview a suspect who has been deemed unfit to interview.

Urgent interviews

You must always record the grounds for a decision to conduct an urgent interview in:

- your pocket notebook
- your daybook
- a case decision log

Interviewing at a Police Station

If your interview takes place in a police station, and a police superintendent believes a delay in starting the interview is likely to lead to:

- interference with evidence connected to the offence
- interference with other people
- physical harm to other people
- serious loss of property
- damage to property
- others suspected of committing an offence and not yet arrested for it being alerted
- delay to recovery of property connected with an offence

then you may interview a person or child who:

- is under the influence of alcohol and / or drugs or any illness, ailment or condition
- has a mental disorder or disability without the appropriate adult
- has difficulty understanding English without an interpreter
- has a hearing disability without an interpreter

You must not continue to question a person in these circumstances after you have enough information to prevent the immediate risk, or all the necessary questions have been asked to attempt to stop the immediate risk.

The special groups mentioned in this section are all vulnerable. You must only apply the above exceptions in exceptional cases because it overrides safeguards designed to protect them and minimise the risk of unreliable evidence from the interview.

You must also refer to the Police and Criminal Evidence (PACE) codes of practice [PACE Code C 2019](#) annex H when you record the decision. If a detainee fails to meet the criteria in annex H, you must call a health care professional or ambulance.

Interviewing away from a Police Station

Once you have arrested a suspect and given an appropriate caution you must hold their interview at a police station unless a delay in conducting the interview is likely to lead to:

- interference with evidence connected with an offence
- harm to evidence connected with an offence
- interference with other people
- physical harm to other people
- serious loss of property
- damage to property
- others suspected of committing an offence, and not yet arrested for it, being alerted

A similar exception applies where a delay in conducting the interview is likely to hinder the recovery of property obtained from an offence.

For more information, see section 11.1 of [PACE Code C 2019](#).

Interviewing in the above circumstances is an urgent interview, and you must not continue to interview the person as soon as:

- the risk has passed
- you have asked the necessary questions in order to attempt to avert the risk

Urgent interviews and the law

PACE code C section 11.7 says you must make an accurate record of the interview.

PACE code C section 11.18 says where a suspect is vulnerable an urgent interview must not take place unless a superintendent believes it will:

- interfere or harm:
 - evidence
 - other people
 - property
- not significantly harm the person's physical or mental state

For more information see: [Urgent interviews - Pace Code C \(Revised\)](#)

Related content

[Contents](#)

Interview conditions and audio equipment

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the conditions in which interviews must be held and information about the audio equipment you need to record an interview.

For more information see Code E [Police and Criminal Evidence Act 1984 \(PACE\) codes of practice](#).

Interview conditions

As far as is practical interviews must:

- take place in interview rooms which are adequately
 - heated
 - lit
 - ventilated
- be conducted by a minimum of 2 officers referred to as the interviewing officers
- not require the person being interviewed to stand

Using audio discs of the interview in court

Discs from a recorded interview may be played in court. It is essential your recordings are of a satisfactory quality, so they can be heard and understood. This is particularly important if the interviews are conducted in a foreign language or poorly spoken English.

If a recording, or part of a recording, is to be played in court, it is the case officer's responsibility to arrange the playing of the disc.

For secure digital recordings see [recording of interviews by secure digital network](#).

Related content

[Contents](#)

Recording equipment

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about disc recording equipment used for interviews.

Portable CD recorder

Sometimes a portable disc recorder is provided to record interviews of suspects who are not under arrest, away from designated offices, for example, in interviews of proceeds of crime act (POCA) seizures. During the interview you must make sure:

- there is as little background noise as possible
- other disturbances are kept to a minimum for example people entering or leaving the room
- you have adequate supplies of CD's / DVD's
- you have adequate supplies of notices and labels to seal master discs
- you follow the procedures in this guidance

When you have completed the interview

You, as case officer, must take the sealed master discs to a designated office (as there will be no custody officer), log it and book the CD into the property store

If there are necessary grounds for arrest during the interview

You must do all the following:

- carry out the arrest with the audible recording device running
- terminate the interview immediately
- take the suspect to a designated office as soon as it is practical

DVD recording of interviews

Some police stations have DVD equipment to record interviews. If so you will find instructions for using it by the recording machines.

The custody sergeant will issue you with DVDs and you must follow the procedure to seal and sign the DVDs.

If you are an interviewing officer, you must take both the master and copy DVD back to the Home Office building where you work and secure them there.

If an interview is recorded on the police station's secure digital network (see: [Recording of interviews by secure digital network](#)) officers must record the reference

number displayed on the recording equipment at the end of each interview. Officers should contact the digital interviewing team at the force where the interview was conducted if master copies are required.

Related content

[Contents](#)

Recording of interviews by secure digital network

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about conducting an interview using a secure digital network.

A secure digital network does not use removable media. The following requirements are solely applicable to the use of a secure digital network for the recording of interviews.

Criminal investigators in Immigration Enforcement (IE) should seek guidance from the custody sergeant as to who will input the suspect's information onto the secure digital network before the commencement of the interview.

Commencement of interviews by secure digital network

When the suspect is brought into the interview room, the interviewer shall, without delay and in the sight of the suspect, switch on the recording equipment and enter the information necessary to log on to the secure network and start recording (if instructed to do so by the custody sergeant). The interviewer must then inform the suspect that the interview is being recorded using a secure digital network and that recording has commenced.

The interviewer must inform the person that:

- they will be given access to the recording of the interview in the event that they are charged
- if they are not charged or informed that they will be prosecuted they will only be given access as agreed with the police or on the order of a court
- they will be given a written notice, Notice to suspect form, at the end of the interview setting out their rights to access the recording and what will happen to the recording

The interviewer should tell the suspect about the recording process and point out the sign or indicator which shows that the recording equipment is activated and recording.

The interviewer must then follow the procedures for the: [wording at the start of the interview.](#)

Taking a break during an interview on a secure digital network

When a break is taken, the fact that a break is to be taken, the reason for it and the time shall be recorded on the audio recording. The interviewing officer should then

press the stop button on the recording equipment once. This will pause the recording.

To restart the interview the officer must:

- press the play button and state:
 - the time
 - the people present
- caution the suspect again in full and if the person does not understand or you doubt their understanding, give the simplified caution then check their understanding again
- offer legal advice if there is no lawyer present
- clarify that no matters relating to the case were discussed during the break

Conclusion of a secure digital recording

At the end of interview, you must:

- ask the suspect if they wish to say or add anything to what has already been said
- inform the suspect the interview has now ended
- state the time and switch off the recorder

The custody sergeant should outline the procedures to you and the suspect in relation to accessing copies of the secure digital recording.

Related content

[Contents](#)

Audio recording of interviews

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the circumstances which lead to the audio recording of an interview and the reasons why you may not record them.

Interviews that must be audio recorded

You must audio record interviews on official premises in connection with all the following cases:

- immigration related offences
- cases that could be tried in a crown court (for example indictable or either way offences)

Local management has discretion to decide whether interviews for other case categories should be audio recorded, but where practical you must record interviews under caution (even if the suspect is not under arrest) if court proceedings are possible.

Reasons not to use an audio recording of an interview

If you decide not to use recording media to record an interview for any reason it may be the subject of comment in court, and you must make sure you have followed the authorisation procedure.

For more information, see: The authority not to record form - Interviewing suspects. You do not have to use recording media to record interviews in the above circumstances if it is not reasonably practical because:

- the equipment fails
- there is no suitable interview room or recorder available
- the authorising officer believes on reasonable grounds the interview should not be delayed until the failure has been rectified or a suitable room or recorder becomes available
- you have given priority where practical to audio record interviews with suspects of the more serious offences
- it is clear there will be no prosecution

Similarly, if the suspect is mentally disordered or otherwise mentally vulnerable or has a hearing or verbal disability or is similarly disadvantaged, you do not have to use recording media to record interviews. However, this only applies if the authorising officer believes, on reasonable grounds which include representations made by a responsible third party, that an audio recording of the interview would not be in the suspect's interest.

If the described circumstances apply an officer of at least chief immigration officer grade, who is not connected with the case, must:

- authorise the interview not to be audio recorded
- complete and sign the authority not to record an interview - Interviewing suspects

The form must be signed in the presence of the suspect.

Informing custody (removable media)

Where audio recording is appropriate, if you are the officer who conducts the interview, you must:

- inform the custody officer
- take from the store enough of each of the following to last the expected length of the interview:
 - discs
 - labels to seal the master discs at the end of the interview

If the interview is to be conducted via a secure digital network, you should seek guidance from the custody sergeant see: [Recording of interviews by secure digital network](#).

Related content

[Contents](#)

Using police facilities

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the procedure to follow when interviewing at police facilities.

Using police audio recording facilities (removable media)

The police normally supply discs, but some police forces may prefer you to supply your own.

Some custody suits provide a secure digital network for the audio recording of interviews. Criminal investigators in Immigration Enforcement (IE) should follow the procedures outlined by the custody sergeant when conducting interviews via a secure digital network. See: [Recording of interviews by secure digital network](#)

You must keep the master disc in the control of the department where possible. If the police force allows you to take master discs away with you, you must follow the disc security procedure.

If the police force does not allow you to remove master discs you must follow the police master disc procedures and make a copy of the copy disc to use as the working disc.

The copy disc then takes the status of a master disc within the department (legally speaking, it is not a master disc). You must then deal with the copy using the same security procedures.

Access to master discs or secure digital recordings held by the police

If you need access to the master recording held by the police, you must:

- apply in writing to the Crown Prosecution Service (CPS) and give reasons why you need access to the recording
- inform the defence you will seek the permission of the court to gain access to the recording once you have CPS agreement
- write to the court requesting access to the recording
- inform the defence in writing once the court has granted permission
- apply in writing to the chief police officer of the police station concerned

You must break and reseal the disc on police premises in the presence of:

- an officer of at least grade 7
- a police officer
- a representative from the CPS

For Northern Ireland, the legal representative must be a barrister or a solicitor employed or instructed by the director of public prosecutions.

The defence have the right to be present. If they are, the police will ask the defence (or, in the absence of the defence, the legal representative), to sign the resealing label.

If the disc has been used in committal proceedings, you must reseal for later production in court. The court clerk, if present, will sign the label when it is resealed.

You must return the disc to the police officer who will:

- replace it in the secure cabinet
- record that the disc has been unsealed in the register

Related content

[Contents](#)

[Recording equipment](#)

[Recording interviews](#)

Related external content

For more information see:- [PACE Codes E and F 2018 - GOV.UK \(www.gov.uk\)](#)

Pre-interview disclosure or briefing

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about pre-interview disclosure or briefing, what it does and what can happen if you do not give it.

This is the meeting between the investigator and the suspect's legal adviser prior to conducting the suspect interview. The purpose is to provide the legal adviser with sufficient material about the investigation to help them advise their client prior to interview.

To make sure the arrested person is fully informed you must give one of the following:

- a pre-interview disclosure:
 - for more information on how to give pre interview disclosure see The ACPO statement on Pre Interview Briefings ACPO Position Statement
- a pre-interview briefing:
 - for details of when to use this see The ACPO statement on Pre Interview Briefings ACPO Position Statement

The [Police and Criminal Evidence \(PACE\) codes of practice](#) C note 10 B says you must give the arrested person (and their legal representatives) enough information to make sure they understand:

- they have been deprived of their liberty
- the allegations against them
- the reason they have been arrested

What can happen if you do not give pre interview disclosure or pre interview briefing

If you do not give pre-interview disclosure correctly it might result in the prosecution not being able to rely on the drawing of adverse inference provisions of section 34 of the [Criminal Justice and Public Order Act 1994](#).

Adverse inference is when a party has relevant evidence within their control, which they fail to produce. Failure creates the impression that the evidence is unfavourable to them.

For more information see: [Adverse inferences](#).

Completing the pre interview disclosure

You must complete the pre interview disclosure on form MG6A, see: Manual of guidance and MG forms.

On a MG6A form, you must:

- inform the person of the nature of the suspected offence:
 - for example, a broad but to the point summary of the evidence and the number and identities of those involved along with the place and time where the alleged offence was committed
 - you must avoid vague or technical language
- include in the grounds for arrest an explanation of the conditions which made the arrest necessary
- include a summary of the evidence against the suspect:
 - set out the specific issues you wish to address and tell them you will not necessarily restrict the questions to those areas
- highlight any same or similar types of offending including historical and any other convictions that may allow the interviewer to identify motivation of offending
- provide when applicable copies of any evidence you wish the suspect to consider and which you wish to question them on
- make sure pre-interview disclosure is enough for the purposes but not too lengthy or detailed because of the constraints of the custody clock and the need to interview
- make sure the legal representative signs the MG6A and it is kept by the investigator

It is best practice to audio record the disclosure as well as issuing the MG6A.

What not to include in pre interview disclosure

Do not give the legal representative:

- a copy of previous convictions
- any reports obtained from intelligence reports
- any previous crime reports or witness information
- under any circumstances provide statements or other investigative material

When a suspect is not represented

If a suspect is not represented by a legal advisor, the investigation team must make sure the suspect is given sufficient information to enable them to understand the nature of the allegation, and why they are suspected of committing it so they can decide if they want to request a legal adviser.

Officers should note the current College of Policing guidance on Pre interview briefings (see: [Investigative interviewing](#)) states 'Investigators should not normally provide self-represented suspects with material prior to interview as they may not, without context, fully appreciate the evidential value of the material provided. This material will still be provided during the interview, when an explanation of its context and evidential value can also be given. This is a matter for investigators.'

For further information about the exact information you must provide see note 3 of [Police and Criminal Evidence \(PACE\) code G](#).

Related content

[Contents](#)

Planning an interview

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about how a detailed interview plan can help the interviewer deal with issues as they arise during an interview.

The 'PEACE' interview model

When you plan an interview with a suspect you must follow the model below:

- plan and prepare:
 - consider what you are going to say and the reasons for saying it
- engage and explain:
 - introduce and explain the reason for you speaking to them
- account:
 - ask for their account of events
- closure:
 - confirm what has been said and allow the suspect to clarify points they have made
- evaluation:
 - reflect on the information you have obtained and identify any subsequent action you need to take

If you use the PEACE model in this way, it will help:

- you get the information you need
- the people you interview understand you

Ensure that there are enough points to prove the suspected offences and apply the points to the interview plans. Interview plans:

- identify legal defences to offences and establish appropriate ways to respond to them
- review:
 - the case evidence
 - all the available evidence and antecedent (previous convictions) history of the suspect to work out an appropriate interview strategy
- plan an interview in relation to evidence of bad character
- identify basic strategies you can apply in an interview

The interview plan

It is best practice to prepare a written suspect interview plan. This is a tool you can use to assess all available evidence, for example:

- evaluate all statements
- decide what the unavailable evidence is and where you might find it

- the purpose of the interview
- the aims and objectives
- the structure of the interview for example:
 - questioning types
 - officers' roles
 - possible suspect reactions
- the points to prove for the offence or offences in question
- any defences that are available
- using exhibits and other evidence
- the value of planning with another officer
- the time you will require
- having stationery and any exhibits available
- make the necessary arrangements for an appropriate adult to attend if appropriate
- consider the benefit of sketch plans either prepared by you or drawn by the suspect

When you interview suspects, you must also be prepared to introduce notes made of any earlier conversations that officers had with them, such as initial questions.

Related content

[Contents](#)

Starting and conducting an interview

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about how to start and conduct a disc recorded interview under caution.

At the start of an interview (removable media)

If you conduct a disc recorded interview you must, in the presence of the suspect:

- remove the manufacturer's wrapping from the disc:
 - always use new discs
- explain to them your actions and the purpose of the equipment
- load the discs into the recorder
- press the 'record' button:
 - the alarm will sound whilst the disc starts - warn the suspect this will happen

The recorder is now ready to record the interview.

For starting a secure digital network interview see: [Recording of interviews by secure digital network](#).

Objections to recording

If the suspect raises an objection to being audio recorded, give the following advice:

'(State name of suspect), even without recording the interview I will be free to make any notes of the interview. It is in your own interests for the interview to be recorded, as it will provide a clear and undisputed record of what is said. In any case, you do not have to say anything if you do not wish to.'

If the objection is recorded on disc or secure digital network, you do not need authority to continue the interview without recording.

If you are unable to record the objection, you must:

- seek permission of an officer of at least chief immigration officer (or equivalent) to continue the interview by note taking
- note their permission in your notebook
- where practical, get the chief immigration officer's signature in the presence of the suspect

Related content

[Contents](#)

Wording at the start of the interview

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what you must state at the beginning of the recorded interview.

You, as the interviewing officer must:

- state your name or warrant number
- state the names of any other people present
- state the date
- state the time
- state the location of the interview
- advise the suspect they will be issued a copy of 'form INTERVIEW' (Notice to person whose interview has been recorded) at the end of the interview

Wording to use for interview (aide-memoire)

You must next state the following:

'The date is (state date). The time is (state time). We are in an interview room at (state location, for instance custody suite, police station and full address).

I am (interviewing officer to state name or warrant number). Also present is (second officer to state name or warrant number and any other persons present to identify themselves, for example, suspect's lawyer). There are no other persons present.

This is an interview with: state your full name please (suspect to state name). State your address please (suspect to state address). State your date of birth please (suspect to state date of birth).

This interview is being audio / digitally recorded I am (interviewing officer to state name or warrant number). Also present is (second officer to state name or warrant number and any other persons present to identify themselves, for example, suspect's lawyer). There are no other persons present.

The date is (state date). The time is (state time). We are in an interview room at (state location, for instance custody suite, police station and full address). At the conclusion of the interview, I will give you a form which will explain the procedure for dealing with this recording and how you can have access to it.'

You must remind the suspect of their right to free and independent legal advice under the duty solicitor scheme, and they can speak to a solicitor on the telephone. You must state:

‘I must advise you that you are entitled to free legal advice at any time. Do you understand? I must also advise you that you may speak to a legal representative on the telephone. Do you wish to do so?’

If the suspect has declined any offer of legal representation, you must state:

‘I must ask you why you have not requested legal advice or to consult with a legal representative by telephone. I must remind you that you can ask at any time for free legal advice during the course of this interview. If you want legal advice, say so and I will suspend the interview and arrange for legal representation. Do you understand? Are you prepared to continue and answer questions without legal representation at this time?’

Explain You have been arrested on suspicion of ... and the reason for the interview is to obtain your version of the events if you choose to do so and to establish any other lines of enquiry.

Caution the suspect immediately before you question in the following terms:

UK country	Wording you must use for the caution
England and Wales	‘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’.
Northern Ireland	‘You do not have to say anything, but I must caution you that if you do not mention when questioned something which you later rely on in court, it may harm your defence. If you do say anything it may be given in evidence’.

If the person does not, or you doubt, they understand

In England, Wales and Northern Ireland if this happens you must give the following simplified caution and then check again if they understand:

‘I am going to ask you some questions. You do not have to answer any of them unless you want to. But if you go to court and say something there which you have not told me about, and they think you could have told me, it may harm your case. Anything you do say may be repeated in court’

For more information on explaining the caution, see: Explaining the caution aide memoire.

Wording about legal advice in the interview

You must remind the suspect of their right to free and independent legal advice under the duty solicitor scheme and they can speak to a solicitor on the telephone. You must state:

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Confirm any statements made before the interview

You must:

- put to the suspect any significant statement or silence, that occurred before the interview starting
- ask them if they confirm or deny the earlier statement or silence
- ask them whether they wish to add anything

For a copy of an interview aide-memoire see Interview aide memoire.

Related content

[Contents](#)

During the interview

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what you must do during an interview to identify things on the audio recording or if the equipment is faulty.

During the interview, you must:

- identify anyone who enters the interview room and the reason for them entering for example bringing refreshments
- describe exhibits in enough detail to clearly identify the items referred to which are usually items of evidence for example:
 - 'passport in the name of'
 - 'boarding card and ticket in the name of'
- describe non-verbal signs for example nods shakes of head or gestures in as much detail as necessary to avoid confusion
- introduce other speakers and explain their involvement

If the recording equipment or removable media becomes faulty

If this happens, you must:

- identify the fault on the disc already in the machine if possible or on new ones if not
- seal the master disc if either the disc or the machine is faulty
- reconstruct the substance of the interview on new discs up to the time the fault occurred by using whatever notes have been taken or discussion with the suspect (which you must record)

If the recording equipment becomes faulty on a secure digital recording network

If the recording equipment becomes faulty when you are conducting an interview via a secure digital network, you must:

- identify the fault on the recording if possible
- inform the custody sergeant of the fault and follow his / her instructions

When the interview is restarted you must reconstruct the substance of the audible interview up to the time the fault occurred using whatever notes have been taken or discussion with the suspect (which you must record).

Information not relevant to the offence

If the suspect indicates to you, they wish to give information about matters not directly connected with the offence but does not want these matters audio recorded, you must give the suspect the opportunity to speak about these matters after you have finished the formal audio recorded interview.

If, during an interview or an investigation, it becomes clear an offence of interest to the police may have been committed, you must contact the police at the earliest possible opportunity, especially if the situation requires urgent police action and delay would be damaging to the public interest.

You must not question the suspect about the police offence.

Related content

[Contents](#)

Breaks during an interview

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what to do if you need to break during the interview.

If you need to break during an interview using removable media, you must:

- describe aloud on the audio recording reasons for breaks for example:
 - disc changes
 - refreshments
 - toilet
 - medical assistance
 - operational demands
- make sure people who enter the room:
 - identify themselves
 - state the reason for the interruption
- seal the master disc if the recording equipment malfunctions
- state time note 'time elapsed' reading and switch off recorder
- stop disc

If the suspect leaves the room during interviews using removable media (discs)

If the suspect leaves the room during interviews using removable media (discs) you must:

- seal the master disc before the suspect leaves the room
- eject the disc and seal the master disc and ask them to sign the sealed label
- restart interview and state the time the people present
- caution the suspect again in full and if the person does not understand or you doubt their understanding:
 - give the [simplified caution](#)
 - check their understanding again
- offer legal advice if there is no lawyer present
- clarify that no matters relating to the case were discussed during the break

When an interview is restarted after a long break, you must:

- use a new disc
- state who is present and where the interview is taking place
- caution the suspect again and if the person does not understand or you doubt they understand:
 - give the [simplified caution](#)
 - check their understanding again

If a short break is taken and the suspect remains in the interview room with an officer as the officer, you must:

- not remove the CD and continue (if removable media)
- restart interview stating:
 - time
 - people present
- caution suspect again in full and if the person does not understand or you doubt their understanding:
 - give the [simplified caution](#)
 - check their understanding again
- offer legal advice if there is no lawyer present
- make sure no matters relating to the case were discussed during the break and confirm this when you start the continued interview
- state what happened during the break
- remove the CD from the recorder and seal it if the suspect leaves the room

For breaks during a secure digital network recording see: [Recording of interviews by secure digital network](#).

Related content

[Contents](#)

Using bad character evidence

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about using bad character evidence in interviews.

Bad character evidence in criminal proceedings is evidence of a person's tendency towards misconduct, for example their previous convictions or history of dishonesty.

For more information about bad character evidence please see: [Bad Character Evidence | The Crown Prosecution Service](#).

You can raise bad character evidence if it is related to the offence they are being interviewed for, and can also be introduced for non like offences if one of the 7 gateways can be utilised.

Non like offences may be introduced if it is 'An important explanatory fact' which is evidence of motive.

It should be introduced at the end of the challenge phase of the interview in non-confrontational language and alluded to in the PIB.

You must take care when you raise it as it is the court who decides if the jury will hear this evidence after a bad character application.

For more information on evidence and bad character, see: Evidence in criminal investigations.

Related content

[Contents](#)

Note taking in interviews

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about taking notes in an interview.

There are 2 categories of notes, and they are taken in an official notebook either by:

- the interviewing officer
- a second officer present at the interview

It is increasingly necessary for the prosecution to produce, as evidence or unused material, various secondary records, for example:

- interview summaries
- notebooks
- trigger notes

You must take great care to make sure both categories of notes are accurate and reflect other records of the same events.

There are 2 types of notes: mandatory and discretionary.

Mandatory notes

For all interviews you must note these mandatory details:

- time of recording start and finish
- those present
- where the interview was conducted
- requests and provision of refreshments
- interruptions

Discretionary notes

You may note the following to help with either the structure of the interview or the completion of a summary:

- time dates places of significant events
- other significant replies for example confessions obvious lies and inconsistencies
- any statements including unsolicited comments made by suspects outside a formal cautioned interview may form important evidence:
 - you must note down any such statements and ask the suspect to sign the notebook to confirm the statement made
 - this also applies to any questions and answers given before you give a caution

- if the suspect refuses to sign an officer's notebook you must ask a senior officer to verify it instead
- if the statements made and noted are considered to be relevant to the case, you must put them to the suspect during a cautioned interview
- it will also help you prepare a summary of the interview if the time elapsed readings shown on the recorder are noted when these events occur

If a suspect wants to provide a witness statement with a view to pleading guilty to an offence or turning King's evidence, you must take that statement under caution. You must not offer any inducement to a suspect in order to obtain such a statement.

Kings Evidence - Immunities, Undertakings and Agreements under the Serious Organised Crime and Police Act 2005 is complex legislation and should not be offered or considered without specialist interview advice from an interview advisor and must not be done without Crown Prosecution Service (CPS) consent.

Related content

[Contents](#)

Interpreters in an interview

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about using interpreters in interviews.

You must not interview a person in the absence of a person capable of acting as interpreter if:

- the person has difficulty in understanding English
- you cannot speak the person's own language
- the person wants an interpreter to be present

There may be occasions where an interpreter is requested or needed, but an interview can be conducted without one. For more information on the exceptions, see:

- [when you can interview a suspect](#)
- [exceptional circumstances when you cannot interview](#)

You must make all reasonable attempts to make clear to a detained person who is deaf or who has genuine difficulty understanding English that interpreters will be provided free of charge.

If the person concerned cannot communicate with the solicitor, whether because of language or hearing difficulties, you must call an interpreter.

You must record any:

- action you take to call an interpreter
- agreement to be interviewed in the absence of an interpreter

Once in the interview, it is good practice to:

- make sure the interpreter:
 - makes a note of the interview at the time in the language of the person being interviewed to use if they are called to give evidence
 - certifies its accuracy
- allow enough time for the interpreter to make a note of each question and answer after each has been put or given and interpreted:
 - the person must be given an opportunity to read it or have it read and sign it as correct or to indicate where they consider it inaccurate

If the interview is audio recorded, you must remind the interpreter they must be accurate as their interpretation may be challenged. They must convey precisely the questions asked and the responses given.

You must make sure you give the interpreter an opportunity to read the record of the interview (if written) and to certify its accuracy in the event of their being called to give evidence.

Live link interpretation

Section 13.12 of the Police and Criminal Evidence Act (PACE) revised codes of practice outlines the new provision of enabling communication between the suspect and an interpreter who is not physically present with the suspect.

See: [PACE Code C 2019](#).

The arrangement must ensure that anything said by any person in the suspect's presence and hearing can be interpreted in the same way as if the interpreter was physically present at that time. The communication must be by audio and visual means for the purpose of an interview, and for all other purposes it may be either; by audio and visual means, or by audio means only.

The arrangements must comply with the minimum requirements set out in [Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010](#) on the right to interpretation and translation in criminal proceedings.

The person is making a statement in a language other than English

The interpreter must take down the statement, including the caution, in the language it is made. You must invite the person making the statement and the interpreter writing it to sign it and you must organise an official English translation as soon as possible.

The person is deaf or you doubt their hearing or speaking ability

If this is the case, you must not interview them without an interpreter unless they agree in writing to be interviewed without one.

The person is a juvenile

You must also call an interpreter to interview a juvenile and have the parent or guardian present.

If the interpreter is needed as a prosecution witness at the person's trial, a second interpreter must act as the court interpreter.

For more information on the use of interpreters see: Criminal investigations: use of interpreters.

Related content

[Contents](#)

No comment interview and prepared statements

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what to do if the suspect answers 'no comment', provides a written prepared statement, or both.

Prepared statements: a definition

The purpose of a prepared statement is to give an account of the matter being investigated but protects the suspect from having their explanation scrutinised by the investigation team.

This prepared statement is usually handwritten on an A4 sheet of paper written by the legal representative with their client during private consultation. This is read out by the legal representative in the interview.

Before interview

You can ask the legal advisor what their client intends to do in the interview. For example, are they going to:

- provide an account
- answer no comment
- give a prepared statement

This gives you the opportunity to prepare for which course the interview will take. The legal advisor can refuse to tell you.

During interview

Start the interview using the recommended format in this guidance then invite the suspect or legal advisor to read the statement out.

It is good practice to ask the suspect to read the prepared statement. If they cannot, it will highlight either an interpreter or appropriate adult is needed to safeguard the integrity of the interview.

Once they have read out the prepared statement

If the suspect reads out a prepared statement:

- ask if they have read and understood the statement
- ask if they agree with the contents
- give the original prepared statement an exhibit reference and refer to it by this reference for the rest of the interview
- ask if you can retain the original prepared statement if not ask for a copy

- if the prepared statement has no detail and is merely a denial, interviewers may remain in the interview and continue
- if a more detailed prepared statement is offered once readout the interviewer must stop the interview to consider and plan on what has been disclosed

If the solicitor or legal representative refuses to give you a copy

You must mention this on the audio recording then continue with the interview. The suspect has read the statement out during interview, so you will have a record of its contents.

Questions to ask during interview

It is important you ask all relevant questions during an interview, even if the defendant gives 'no comment' responses.

This is especially important if a prepared statement has been given which does not cover specific facts that relate to, and are of importance to, the matter under investigation.

In these situations, an adverse inference may still be drawn due to the inconsistencies that may arise from the interview and statement compared to the evidence given at trial.

It is important to make sure both the facts mentioned in the interview which the defendant has been asked to account for and comment upon, and those contained within the prepared statement correlate (are the same).

If there are facts that are mentioned in the statement, but which are covered during the interview and later relied upon by the defendant at trial, this will possibly allow adverse inferences to be drawn.

For more information see: [Prepared statements](#).

Related content

[Contents](#)

Allegations of misconduct and complaints

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what to do when allegations of misconduct or complaints are made during an interview.

If the suspect either alleges misconduct or makes a sufficiently serious complaint against an officer that causes the interview to be broken off, you must:

- describe on the audio recording your intention to inform the custody officer (or His Majesty's Inspector (HMI) if the suspect has not been arrested)
- stop the recording
- seal the discs (removable media only) - for more information on sealing a disc see: [Concluding an interview](#)

If the suspect either alleges misconduct or makes a complaint against other officials present, you must:

- inform the suspect on the audio recording that the allegation has been noted
- continue the interview but bring the allegation to the attention of the custody officer (or an HMI if the suspect is not under arrest) at the earliest opportunity unless the allegation warrants you suspend the interview immediately
- confirm the report in writing

Related content

[Contents](#)

Concluding an interview

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office how to conclude an interview using removable media and the procedure you must follow.

At the end of the interview, you must:

- ask the suspect if they wish to say or add anything to what has already been said
- inform the suspect the interview has now ended
- state the time and switch off the recorder

Seal the master disc

You must follow the procedure below:

- mark the disc with the name of the suspect and disc number
- replace the disc in its case
- apply completed label around the case
- seal the master recording with a master label in the presence of the suspect
- treat the master copy as an exhibit in accordance with force standing orders for more information see: Police and Criminal Evidence Act (PACE) Code of practice E
- sign the label and ask the suspect and any third-party present during the interview to sign it
- the people signing the label if they are present must be:
 - interviewing officer
 - other interviewing officers
 - suspect
 - appropriate adult
 - solicitor or legal representative
 - interview supporter
 - interpreter
 - anyone else present
- if the suspect refuses to sign you must:
 - call an independent officer of at least chief immigration officer (CIO) grade or equivalent police rank (Inspector) into the interview room
 - ask them to sign instead

Seal the copy disc

You must mark the copy disc with the name of the suspect and disc number, and put into case where and complete the inlay card with the:

- date
- name of the suspect
- disc number

- interviewing officer's name
- times of the disc start and finish

You must then give the suspect a notice which explains:

- how the recording will be used
- the arrangements to have access to it
- if they are charged or informed they will be prosecuted a copy of the audio recording will be supplied as soon as practical or as otherwise agreed between the suspect and the police

After the interview

At this point you must enter in your notebook the following facts about the interview:

- where it took place
- that it was recorded on DVD or secure digital network
- the start time and finish time
- the duration
- the date
- the master recording's identification number

You must then:

- return the responsibility for the person to the custody officer
- inform the custody sergeant:
 - the interview has finished
 - whether you need to ask any more questions

For the procedures to follow when concluding an interview on a secure digital network see: [Recording of interviews by secure digital network](#).

Related content

[Contents](#)

Voluntary attenders

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about voluntary attenders and how to interview them.

Voluntary attender: the legal definition

[Section 29 of the Police and Criminal Evidence Act \(PACE\)](#) or [article 31 of PACE \(NI\)](#) defines a 'voluntary attender' as:

- where for the purpose of assisting with an investigation a person attends voluntarily at a police station or at any other place where a constable is present or accompanies a constable to a police station or any such other place without having been arrested

Criminal investigators in immigration enforcement should always conduct a voluntary interview at a police station. Only in exceptional circumstances with the authorisation of a Criminal and Financial Investigation (CFI) Assistant Director (AD) should a voluntary interview be conducted at any other location.

A 'voluntary attender', (VA) as the name suggests, attends of their own free will. You must treat them with no less consideration than detainees or arrested people.

A VA interview at a police station should be conducted outside the custody suite. Prior consultation with the custody sergeant must be undertaken before you book the VA interview.

Voluntary attender (VA): Initial risk assessment

There may be cases where a suspect might warrant a higher level of care or support that would normally be the case whilst being dealt with under VA, and therefore VA may not be suitable.

Prior to a suspect being dealt with by VA, officers dealing must complete the Initial section of the Voluntary attender initial risk assessment form in the presence of the interviewee.

The initial questions asked of the suspect are:

- do you have any known physical or mental health issues?
- have you consumed alcohol or drugs in the last 24 hours?
- do require help with reading or writing or have you any learning difficulties?

Officers must also assess if the subject requires the assistance of an appropriate adult.

The role of the appropriate adult is to safeguard the rights, entitlements and welfare of juveniles or vulnerable persons and is expected to support, advise and assist the

detainee when, in accordance with this Code or any other Code of Practice, they are given or asked to provide information or participate in any procedure; and to observe whether the Officers are acting properly and fairly to respect their rights and entitlements.

'The appropriate adult' means, in the case of a:

- juvenile:
 - the parent, guardian or, if the juvenile is in the care of a local authority or voluntary organisation, a person representing that authority or organisation
 - a social worker of a local authority
 - failing these, some other responsible adult aged 18 or over who is not a police officer or employed by the police
- person who is vulnerable:
 - a relative, guardian or other person responsible for their care or custody.
 - someone experienced in dealing with vulnerable persons but who is not a police officer or employed by the police,
 - failing these, some other responsible adult aged 18 or over

For more information see: [PACE Code C 2019](#).

If the answer is yes to any of the above, guidance must be sought from a supervisor (minimum CIO) before proceeding with the interview.

Officers must also check all Home Office databases and PNC and PND before commencing the VA interview.

The [Police and Criminal Evidence Act \(PACE\) 1984 code G](#) requires you to consider whether the suspect's voluntary attendance is a practical alternative to arrest. Once you decide under Code G that a voluntary interview is more appropriate than arrest you must advise the suspect of their rights. See: Notice to voluntary attendees.

Initial action at the start of interview

You must caution a voluntary attender under the provisions in section 10 of the [Police and Criminal Evidence Act \(PACE\) 1984 Code C](#) and if you are the person giving the caution you must inform them they are not:

- under arrest
- required to stay at the police station or Home Office location and can leave at any time they wish to unless they are arrested

If they decide to remain, you must:

- inform them they may obtain free and independent legal advice by phone, or in person
- tell them these rights are set out in the Notice to voluntary attendees:
 - this is issued by the custody officer when the attender is cautioned (as above) or they enquire about their rights whichever comes first
- offer them breaks refreshments and facilities

- make a note of the above actions if the voluntary attendance is at a place other than a custody office:
 - include in this note the voluntary attender's name and address and the length of time the attendance lasted

Free legal advice

The Legal Services Commission has confirmed a voluntary attender under caution at a police station is entitled to free legal advice, ([Section 29 Police and Criminal Evidence Act 1984](#)) and also at any other place:

- provided that an officer with the power of arrest in relation to the matter on which the interview is based on is present:
 - the person does not have to be arrested to obtain free advice

When at a police station you must ask the custody officer to get a solicitor for the individual if they have requested one.

Voluntary Attender (VA) pre-departure risk assessment

At the conclusion of the voluntary interview officers must complete the pre-departure risk assessment section of the. Voluntary attender pre departure risk assessment form.

The pre-departure questions section of the form **must be audibly recorded**.

The following questions must be asked:

- Do you have any vulnerabilities not already disclosed following your time at the police station?
- Do you have any thoughts of self-harm or suicide?
- Would you like to be referred to any substance misuse /alcohol agencies?
- Is there anything else you would like to tell us about your health and wellbeing?

If the answer is 'yes' to any of the above you must seek guidance from a supervisor (minimum grade CIO) before proceeding. Consideration must also be given to referral to other agencies if considered appropriate.

The risk assessment form should be signed by the officer, interviewee and appropriate adult (if used).

The supervising officer (minimum CIO) must review the completed risk assessment form if in attendance or on the officer's return to the office. The risk assessment form must be uploaded onto Clue.

Arresting a voluntary attender

Under the voluntary attendance procedure, the attender has the right to leave at any time. If you prevent the attender from leaving, they are considered to be under arrest.

If you arrest the attender, you must have sufficient grounds for the arrest. You must not arrest them just to prevent them from leaving.

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
- it was not reasonably practical for the person to be arrested before they attended at the station

Although each arrest is at the arresting officer's discretion, they must be satisfied the arrest can be justified as necessary ([Section 24 \(5\) Police and Criminal Evidence Act 1984](#) - necessity test). These grounds must include reasonable suspicion that:

- an offence has been committed
- the person being arrested had some involvement in that offence

Related content

[Contents](#)

Voluntary interviews

Necessity to arrest

Interviewing juveniles and the vulnerable

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about interviewing juveniles, the mentally disordered or otherwise mentally vulnerable people.

You must always take special care when you question juveniles, the mentally disordered or otherwise mentally vulnerable people. If you have any doubt about a person's age, mental state or capacity you must always involve an appropriate adult.

Juvenile

Anyone who appears to be under 18, shall, in the absence of clear evidence that they are older, be treated as a juvenile. This amendment reflects the statutory definition of 'arrested juvenile' in [section 37 \(15\) Police and Criminal Evidence Act 1984](#). This section was amended by [section 42 Criminal Justice and Courts Act 2015](#) and includes anyone who appears to be under the age of 18.

Appropriate adults

[Section 63 B 10 of the Police and Criminal Evidence Act \(PACE\)](#) defines an appropriate adult for a juvenile as their parent or guardian.

If the juvenile is in the care of a:

- local authority
- voluntary organisation

the appropriate adult is a:

- person who represents that authority or organisation
- social worker of a local authority

If there is nobody who meets the above criteria available, an appropriate adult can be any responsible person aged 18 or over who is not a:

- police officer
- person employed by the police

The definition of persons who cannot act as appropriate adults is extended to police support volunteers and detention or escort officers employed by a contractor see: section 1.7 [Pace code C 2019](#).

If you think the person to be interviewed may be mentally disordered or otherwise mentally vulnerable regardless of their age you must consult a:

- medical professional who is involved in their care
- social worker of a local authority

Whether the person is a suspect or not, you must not interview them, or ask them to provide or sign a written statement, without the presence of the appropriate adult. Only in truly exceptional circumstances should this be considered.

For more information, see: [Exceptional circumstances when you cannot interview](#).

You must tell the appropriate adult present at the interview they are not just expected to act as an observer. The purpose of their presence is to:

- advise the person being questioned
- observe whether or not the interview is being conducted properly and fairly
- help communication with the person being interviewed

An appropriate adult can be removed from an interview 'if their conduct is such that the interviewer is unable properly to put questions to the suspect' see section 11.17A [PACE Code C 2019](#).

Important factors

As the interviewing officer, you must establish the detained person's:

- medical needs
- ability to be interviewed

Although juveniles and people who are mentally disordered or otherwise mentally vulnerable are often capable of providing reliable evidence, they may without knowing or wishing to do so be particularly prone in certain circumstances to provide information which is unreliable misleading or self-incriminating.

You must also be aware of the health and safety implications of conducting or continuing with an interview if there are any disabilities or medical reasons that could affect the interview.

Interviewing juveniles at their place of education

You may only do this in exceptional circumstances and only if the principal or a nominee agrees.

You must make every effort to notify both the parents, other person responsible for the juvenile's welfare and the appropriate adult (if this is a different person). When you make contact, you must:

- inform them the department wants to interview the juvenile

- allow reasonable time to allow the appropriate adult to be present at the interview

If waiting for the appropriate adult would cause unreasonable delay the principal or nominee can act as the appropriate adult for the purposes of the interview, unless the suspect is suspected of an offence against the educational establishment. It is preferable not to arrest a juvenile at their place of education unless it is unavoidable.

If you arrest a juvenile at their place of education, you must inform the principal or the nominee.

Related content

[Contents](#)

Interviewing defence witnesses

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about interviewing defence witnesses in England, Wales and Northern Ireland.

If you are to interview a defence witness who you do not believe to be complicit (involved) in the offence, you must ask them whether they want the defence solicitor to be present during the interview.

If the witness objects to their presence you must inform the:

- defence solicitor of the proposed interview:
 - if there is more than one defence solicitor you must notify all of them
- witness you have informed the solicitor

This is an exception to the normal rule that you must not contact the defence once proceedings are pending. In appropriate cases you might invite the witness to make a written statement although it would be entirely voluntary.

To avoid any doubt, this does not apply in Scotland where it is firmly established by the courts, and accepted by defence solicitors, that defence witnesses will be interviewed by or on behalf of the Crown and defence solicitors have no right or expectation to be present.

Related content

[Contents](#)

Interviewing prisoners

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about interviewing prisoners (persons within prison detention).

You may interview people in prison with:

- their consent
- the agreement of the prison governor

The general rule is whilst the Police and Criminal Evidence Act (PACE) 1984, PACE (NI) and the codes of practice do not apply in a prison; you must follow the spirit of the Act and codes at all times see: [Police and Criminal Evidence Act 1984 \(PACE\) codes of practice](#).

Categories of prison interviews

There are 2 categories of interview:

- voluntary interviews where:
 - the prisoner can only be questioned for as long as consent is given
 - if consent is withdrawn you must either terminate the interview or hold a compulsory interview
- compulsory interviews where:
 - if there are reasonable grounds to believe the prisoner may have committed an offence for which you can be arrested for, the prisoner will be compelled to remain to answer questions you consider appropriate
 - prisoners can be interviewed in prison or at designated custody suites

Before the prison interview takes place

You are advised to check the details of the prisoner you are going to interview to see if they are already under investigation by any other agency. If they are, you should notify the relevant agency before the interview. Good practice suggests this is best achieved by liaison with the Prison Intelligence Officer (PIO). An up to date list of PIOs is maintained by the Prison Advisers within His Majesty's Prison & Probation Service (HMPPS).

Official - sensitive: start of section

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Official - sensitive: end of section

Interviews with prisoners in prison

Before the interview, the prisoner must be:

- cautioned
- reminded of their right to:
 - legal advice
 - have an appropriate adult present if applicable
 - an interpreter made available where their first language is not English and there are any doubts about understanding

Authority is granted by the Prison Governor and the supervision of the interview will be delegated to prison staff who will ensure authorities and forms are completed, as well as ensuring proper conduct is maintained.

Individual prison establishments may have differing times available for interviews to take place. These need to be established when considering the format of the interviews and likely time required to complete enquiries. Again, individual PIOs can provide bespoke advice and their contact should be made.

Interviews outside of prison

You must complete a Production Order, for the attention of the prison governor, to request the prisoner for interview outside of the prison. There are national guidelines set by the Prison Service but there may be bespoke forms accepted by individual prison establishments. The Order must be signed by an officer of at least His Majesty's inspector (HMI) grade.

These interviews must be conducted at Home Office approved custody suites. These may be where interviews are likely to be involving complex investigations with both staged disclosure and multiple offences.

Other factors

HMPPS do not have a 'National Protocol' on suspect interviews with prisoners. [Prison Service Instruction 26/2012](#), provides instruction on how the process is managed, including Cat A Productions.

Official - sensitive: start of section

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Official - sensitive: end of section

Some prisons have logistics in place for Police and Criminal Evidence Act (PACE) interviews but each must be treated differently, with varying visit facilities, equipment available and support in controlling the process. Interview teams must consider

seeking authority to take in and out their required equipment, such as recorders, power leads, CD's, labels, laptop with maps, CCTV footage and exhibit schedules photos.

An early call to a PIO will establish what is achievable at an individual establishment and what controls may be necessary to achieve success. Prisons maintain 'local plans' and it is likely there will be a plan instructing local methodology.

Related content

[Contents](#)

Summary of an interview

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about preparing a summary of the interview for court and transcriptions of interviews.

If the case is considered appropriate for prosecution, you must prepare a summary of the recorded interview on form MG15. Other staff may carry out the preparation of the summary but, as case officer, you are responsible for the accuracy of the summary. For a copy of this form see: Manual of guidance and MG forms.

In some cases a summary is prepared and exhibited rather than the full transcripts. This summary must be a separate document to the witness statement, and as the summary is exhibited it must be signed.

The purpose of the summary

The summary allows the prosecutor to:

- make informed decisions on the case based on what was said in the interview
- comply with the rules of advance disclosure
- conduct the case in court, if the defence has accepted it

Preparing the summary

You must prepare the summary from:

- any notes taken during the interview
- listening to the working copy of the interview

Content of the summary

The length of summary will depend upon the case:

- guilty pleas or admissions only need a brief summary quoting the admissions
- contested cases (or cases likely to be contested) need a longer and more substantial summary with greater detail of evidential points relevant to the case

The summary must:

- include any significant evidential points
- be accurate
- be selective
- be fair and balanced
- be confined to an account of those parts of the interview that you consider directly relevant in evidential terms both to the prosecution and the defence to the matters being out before the court
- be reflected in the evidence that is to be given in court

Related content
[Contents](#)

Transcription of an interview

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about who to deal with for transcriptions of interviews and checking their accuracy.

Transcription is very expensive. You must consider a full transcription only if there is a clear need for it and in cases where the following occurs:

- a decision to charge is to be requested from the Crown Prosecution Service
- the arrested person has been charged

A 'no comment' interview must not be transcribed. A summary of questions asked during interview is enough.

Once you have authority to transcribe the discs you must follow the procedure in your local office.

Accuracy of the transcript

Transcripts produced by experienced transcribers may still contain inaccuracies. You, as case officer, must make sure any transcription is accurate against the disc.

It is best practice for one of the two interviewing officers to check the transcription against the disc and then, if correct, produce it as evidence in court.

Related content

[Contents](#)

Access to interview discs

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the procedures you must follow when you access interview discs.

Access to master disc

To access the master disc of an interview, you must follow the direction set out in the [Police and Criminal Evidence Act 1984 \(PACE\) codes of practice](#):

- you have no authority to break the seal on a master recording required for criminal trial or appeal proceedings
- if it is necessary to gain access to the master recording you must arrange for its seal to be broken in the presence of a representative of the Crown Prosecution Service (CPS)
- you must inform the defendant or their legal adviser and give them a reasonable opportunity to be present
- if the defendant or their legal representative is present they must be invited to reseal and sign the master recording:
 - if either refuses or neither is present the representative of the CPS must do it

Right of access by the defence

Defendants' lawyers and non-represented defendants have the right of access to the recorded interview to be exhibited in evidence.

Defence lawyers may not always wish to take advantage of the right of access or listen to whole recording. You must inform them at an early stage that an audio recording of an interview with their client exists.

For the defence and prosecution to reach any effective agreement before the trial, it will be necessary for the defence lawyer to receive, or be shown, a copy of your statement of evidence.

In cases to be heard in magistrates' courts, formal arrangements exist for the advance disclosure of the prosecution case, and the disclosure of the officer's statement helps the defence lawyer to decide whether to listen to the recording.

If the defence asks for a copy of the disc you must supply it, however you must tell the CPS immediately that you have done this.

Defendants who are not legally represented

If you receive an application for a copy of the disc from a defendant on bail who is not legally represented, the CPS will send the copy by post to the defendant at the address given on the application.

If the defendant is in custody and applies for a copy, you must send the disc by post through the prison establishment governor.

If the defendant requests a copy of the disc or secure digital recording at the time of the interview you can deal with the request locally.

Access to the copy disc

The copy disc must be kept apart from the master disc in a separate secure cabinet. Getting access to the master disc is a lengthy process if a copy disc malfunctions, you must consider copying the copy disc and using that as a working copy.

You, as the case officer, are responsible for keeping the copy disc safe when it is not in the cabinet.

If the interview has been conducted on a secure digital network, you should contact the digital team from the force where the interview was conducted.

Related content

[Contents](#)

Editing and disposing of discs

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what to do when you have to edit interview discs, and when to dispose of them.

Editing discs

If the recording (disc, hard drive) of an interview contains material the Crown Prosecution Service (CPS) say is inadmissible or is likely to be treated as such, you must make sure these passages are not played in court.

If the recording is likely to be played, then:

- before the case is heard the defence and prosecution must decide if the passages containing the inadmissible material can be omitted by fast forwarding the master recording when it is played in court
- if this is not possible you must prepare an edited recording with the agreement of the 2 parties concerned

Prepare the edited recording from a working copy by recording over or erasing such passages.

If material in a disc is sensitive (for security or investigative reasons)

If you think it would not be in the public interest for the material to be disclosed to the defence, you must bring those discs, or parts of discs, to the attention of your grade 7 or above.

They will authorise you to refer the matter to the CPS, if appropriate, to consider whether the recordings must be edited before they are given to the defence.

Disposing of or discs

You must keep master discs in line with the record retention and disposal policy for all prosecution material.

You cannot reuse master discs, but you can clean working copies and use them again for copying.

You must dispose of discs by local or King's warehouse incineration.

Related content

[Contents](#)

Court procedures

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about how to deal with interview recordings that are needed at court.

The witness statement you, as case officer, prepared introduces the audio recorded interview as evidence, and you must:

- produce the master copy of the interview as an exhibit
- inform the court of any official transcript that has been made
- produce it in court

When you give evidence, you are allowed access to the summary statement and can refer to it in the witness box.

Although an audio recording is available for general evidential purposes it is normally only necessary for it to be played in court either to resolve:

- doubt in the absence of a transcript
- any dispute about the accuracy of a transcript

But, the recording may also be played in court if there is a challenge to the admissibility of your evidence of the interview. If, for this or any other reason, the court asks for the recording to be played it is your responsibility to arrange for it to be played on the equipment provided by the court.

It is normal procedure for the master disc (which is to be opened in court) to be played, unless the recording has had to be edited, in which case the edited disc will be played.

Related content

[Contents](#)

Single Point of Contact (SPOC) for persons in prison detention

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about who to contact if you require assistance and advice on conducting interviews with persons within prison detention

Official - sensitive: start of section

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Related content

[Contents](#)