

Action

11.1A An interview is the questioning of a person regarding their involvement or suspected involvement in a criminal offence or offences which, under paragraph 10.1, must be carried out under caution. *Before a person is interviewed, they and, if they are represented, their solicitor must be given sufficient information to enable them to understand the nature of any such offence, and why they are suspected of committing it (see paragraphs 3.4(a) and 10.3), in order to allow for the effective exercise of the rights of the defence.* However, whilst the information must always be sufficient for the person to understand the nature of any offence (see Note 11ZA), this does not require the disclosure of details at a time which might prejudice the criminal investigation. *The decision about what needs to be disclosed for the purpose of this requirement therefore rests with the investigating officer who has sufficient knowledge of the case to make that decision. The officer who discloses the information shall make a record of the information disclosed and when it was disclosed. This record may be made in the interview record, in the officer's pocket book or other form provided for this purpose.* Procedures under the Road Traffic Act 1988, section 7 or the Transport and Works Act 1992, section 31 do not constitute interviewing for the purpose of this Code.

11.1 Following a decision to arrest a suspect, they must not be interviewed about the relevant offence except at a police station or other authorised place of detention, unless the consequent delay would be likely to:

(a) lead to:

- interference with, or harm to, evidence connected with an offence;
- interference with, or physical harm to, other people; or
- serious loss of, or damage to, property;

(b) lead to alerting other people suspected of committing an offence but not yet arrested for it; or

(c) hinder the recovery of property obtained in consequence of the commission of an offence.

Interviewing in any of these circumstances shall cease once the relevant risk has been averted or the necessary questions have been put in order to attempt to avert that risk.

11.2 *Immediately prior to the commencement or re-commencement of any interview at a police station or other authorised place of detention, the interviewer should remind the suspect of their entitlement to free legal advice and that the interview can be delayed for legal advice to be obtained, unless one of the exceptions in paragraph 6.6 applies. It is the interviewer's responsibility to make sure all reminders are recorded in the interview record.*

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11.3 Not used.

11.4 At the beginning of an interview the interviewer, after cautioning the suspect, see section 10, shall put to them any significant statement or silence which occurred in the presence and hearing of a police officer or other police staff before the start of the interview and which have not been put to the suspect in the course of a previous interview. See Note 11A. The interviewer shall ask the suspect whether they confirm or deny that earlier statement or silence and if they want to add anything.

11.4A A significant statement is one which appears capable of being used in evidence against the suspect, in particular a direct admission of guilt. A significant silence is a failure or refusal to answer a question or answer satisfactorily when under caution, which might, allowing for the restriction on drawing adverse inferences from silence, see Annex C, give rise to an inference under the Criminal Justice and Public Order Act 1994, Part III.

11.5 No interviewer may try to obtain answers or elicit a statement by the use of oppression. Except as in paragraph 10.9, no interviewer shall indicate, except to answer a direct question, what action will be taken by the police if the person being questioned answers questions, makes a statement or refuses to do either. If the person asks directly what action will be taken if they answer questions, make a statement or refuse to do either, the interviewer may inform them what action the police propose to take provided that action is itself proper and warranted.

11.6 The interview or further interview of a person about an offence with which that person has not been charged or for which they have not been informed they may be prosecuted, must cease when:

(a) the officer in charge of the investigation is satisfied all the questions they consider relevant to obtaining accurate and reliable information about the offence have been put to the suspect, this includes allowing the suspect an opportunity to give an innocent explanation and asking questions to test if the explanation is accurate and reliable, e.g. to clear up ambiguities or clarify what the suspect said;

(b) the officer in charge of the investigation has taken account of any other available evidence; and

(c) the officer in charge of the investigation, or in the case of a detained suspect, the custody officer, see paragraph 16.1, reasonably believes there is sufficient evidence to provide a realistic prospect of conviction for that offence. See Note 11B.

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This paragraph does not prevent officers in revenue cases or acting under the confiscation provisions of the Criminal Justice Act 1988 or the Drug Trafficking Act 1994 from inviting suspects to complete a formal question and answer record after the interview is concluded.

Interview records

11.7 (a)

An accurate record must be made of each interview, whether or not the interview takes place at a police station.

(b) The record must state the place of interview, the time it begins and ends, any interview breaks and, subject to paragraph 2.6A, the names of all those present; and must be made on the forms provided for this purpose or in the interviewer's pocket book or in accordance with Codes of Practice E or F.

(c) Any written record must be made and completed during the interview, unless this would not be practicable or would interfere with the conduct of the interview, and must constitute either a verbatim record of what has been said or, failing this, an account of the interview which adequately and accurately summarises it.

11.8 If a written record is not made during the interview it must be made as soon as practicable after its completion.

11.9 Written interview records must be timed and signed by the maker.

11.10 If a written record is not completed during the interview the reason must be recorded in the interview record.

11.11 Unless it is impracticable, the person interviewed shall be given the opportunity to read the interview record and to sign it as correct or to indicate how they consider it inaccurate. If the person interviewed cannot read or refuses to read the record or sign it, the senior interviewer present shall read it to them and ask whether they would like to sign it as correct or make their mark or to indicate how they consider it inaccurate. The interviewer shall certify on the interview record itself what has occurred. See Note 11E.

11.12 If the appropriate adult or the person's solicitor is present during the interview, they should also be given an opportunity to read and sign the interview record or any written statement taken down during the interview.

Note: Paragraph 1.5A extends the requirement in this paragraph to interviews of 17-year-old suspects.

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11.13 A written record shall be made of any comments made by a suspect, including unsolicited comments, which are outside the context of an interview but which might be relevant to the offence. Any such record must be timed and signed by the maker. When practicable the suspect shall be given the opportunity to read that record and to sign it as correct or to indicate how they consider it inaccurate. See Note 11E.

11.14 Any refusal by a person to sign an interview record when asked in accordance with this Code must itself be recorded.

(c) Juveniles and mentally disordered or otherwise mentally vulnerable people

11.15 A juvenile or person who is mentally disordered or otherwise mentally vulnerable must not be interviewed regarding their involvement or suspected involvement in a criminal offence or offences, or asked to provide or sign a written statement under caution or record of interview, in the absence of the appropriate adult unless paragraphs 11.1 or 11.18 to 11.20 apply. See Note 11C.

Note: Paragraph 1.5A extends the requirement in this paragraph to 17-year-old suspects.

11.16 Juveniles may only be interviewed at their place of education in exceptional circumstances and only when the principal or their nominee agrees. Every effort should be made to notify the parent(s) or other person responsible for the juvenile's welfare and the appropriate adult, if this is a different person, that the police want to interview the juvenile and reasonable time should be allowed to enable the appropriate adult to be present at the interview. If awaiting the appropriate adult would cause unreasonable delay, and unless the juvenile is suspected of an offence against the educational establishment, the principal or their nominee can act as the appropriate adult for the purposes of the interview.

Note: Paragraph 1.5A extends the requirement in this paragraph to 17-year-old suspects.

11.17 If an appropriate adult is present at an interview, they shall be informed:

(d) that they are not expected to act simply as an observer; and that the purpose of their presence is to: advise the person being interviewed; observe whether the interview is being conducted properly and fairly; and facilitate communication with the person being interviewed.

Vulnerable suspects - urgent interviews at police stations

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11.18 The following interviews may take place only if an officer of superintendent rank or above considers delaying the interview will lead to the consequences in paragraph 11.1(a) to (c), and is satisfied the interview would not significantly harm the person's physical or mental state (see Annex G):

(a) an interview of a juvenile or person who is mentally disordered or otherwise mentally vulnerable without the appropriate adult being present;

Note: Paragraph 1.5A extends this requirement to 17-year-old detainees.

(b) an interview of anyone other than in (a) who appears unable to:

- appreciate the significance of questions and their answers; or
- understand what is happening because of the effects of drink, drugs or any illness, ailment or condition;

(c) an interview, without an interpreter being present, of a person whom the custody officer has determined requires an interpreter (see paragraphs 3.5(c)(ii) and 3.12) which is carried out by an interviewer speaking the suspect's own language or (as the case may be) otherwise establishing effective communication which is sufficient to enable the necessary questions to be asked and answered in order to avert the consequences. See paragraphs 13.2 and 13.5.

11.19 These interviews may not continue once sufficient information has been obtained to avert the consequences in paragraph 11.1(a) to (c).

11.20 A record shall be made of the grounds for any decision to interview a person under paragraph 11.18.

Notes for Guidance

11ZA The requirement in paragraph 11.1A for a suspect to be given sufficient information about the offence applies prior to the interview and whether or not they are legally represented. What is sufficient will depend on the circumstances of the case, but it should normally include, as a minimum, a description of the facts relating to the suspected offence that are known to the officer, including the time and place in question. This aims to avoid suspects being confused or unclear about what they are supposed to have done and to help an innocent suspect to clear the matter up more quickly.

11A Paragraph 11.4 does not prevent the interviewer from putting significant statements and silences to a suspect again at a later stage or a further interview.

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11B The Criminal Procedure and Investigations Act 1996 Code of Practice, paragraph 3.5 states 'In conducting an investigation, the investigator should pursue all reasonable lines of enquiry, whether these point towards or away from the suspect. What is reasonable will depend on the particular circumstances.' Interviewers should keep this in mind when deciding what questions to ask in an interview.

11C Although juveniles or 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 that may be unreliable, misleading or self-incriminating. Special care should always be taken when questioning such a person, and the appropriate adult should be involved if there is any doubt about a person's age, mental state or capacity. Because of the risk of unreliable evidence it is also important to obtain corroboration of any facts admitted whenever possible. Paragraph 1.5A extends this Note to 17-year-old suspects.

11D Juveniles should not be arrested at their place of education unless this is unavoidable. When a juvenile is arrested at their place of education, the principal or their nominee must be informed. Paragraph 1.5A extends this Note to 17-year-old suspects.

11E Significant statements described in paragraph 11.4 will always be relevant to the offence and must be recorded. When a suspect agrees to read records of interviews and other comments and sign them as correct, they should be asked to endorse the record with, e.g. 'I agree that this is a correct record of what was said' and add their signature. If the suspect does not agree with the record, the interviewer should record the details of any disagreement and ask the suspect to read these details and sign them to the effect that they accurately reflect their disagreement. Any refusal to sign should be recorded.