

Practical Application of PACE

Low-Cost CPD Programme for
Environmental Health 2025/26
Health & Safety

Feb 2026

Andy Lucas CEnvH CMIOSH
MIIRSM

Bespoke Safety Ltd

www.bespokesafety.com



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Sadie's boy Simba Cornelius was found running in the middle of a busy road in Romania, dodging cars that were not stopping or swerving to avoid him. Sadie's volunteers saw him, stopped their car and tried to catch him. Scared and frightened, he was finally caught in a ditch. He was under weight and howling in pain due to an existing break in his back leg. His leg was amputated. He was about 12mths old when found and had survived on the streets alone for a Winter where temps drop to -23c. He is now a happy lad (3 legs, 1 eye) and we can't thank Sadies enough. By being on this course you are helping all the other Simbas in Romania.. Thank you! Please visit their site and help if you can.

[Sadies Dog Rescue](#)

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Background

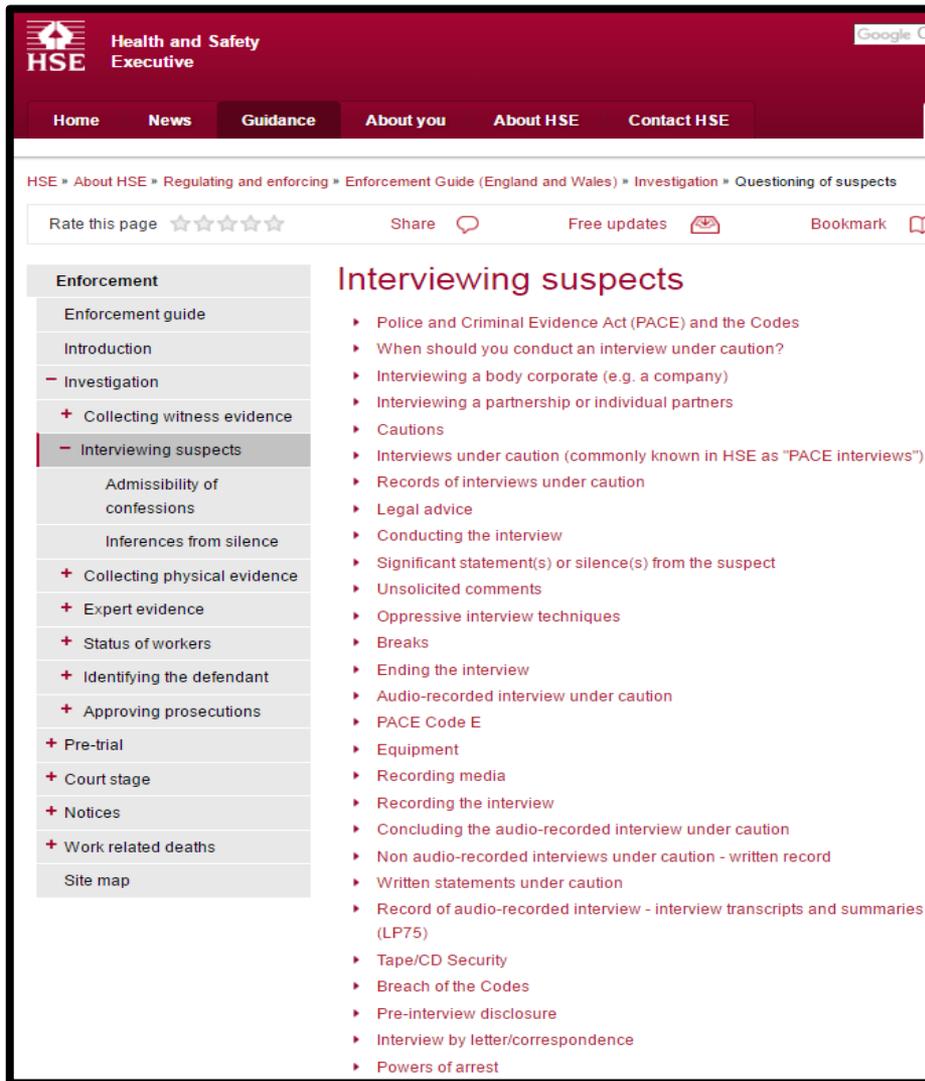
- H&S Team manager BCC
- 30+ years dealing with PACE
- Many complex investigations
- > 40 PACE Interviews (simple/complex)
- Audited PACE interviews
- Trained local government regulators in PACE and PEACE and criminal investigations
- PEACE trained x2 (police)
- Advise local authorities on accident investigations / PACE interviews
- Expert witness



LinkedIn



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The screenshot shows the HSE Executive website. The main navigation bar includes Home, News, Guidance, About you, About HSE, and Contact HSE. The breadcrumb trail is: HSE » About HSE » Regulating and enforcing » Enforcement Guide (England and Wales) » Investigation » Questioning of suspects. The page title is 'Interviewing suspects'. A left-hand menu lists various enforcement topics, with 'Interviewing suspects' selected. The main content area contains a list of links related to PACE interviews, including topics like 'Police and Criminal Evidence Act (PACE) and the Codes', 'When should you conduct an interview under caution?', 'Interviewing a body corporate (e.g. a company)', 'Interviewing a partnership or individual partners', 'Cautions', 'Interviews under caution (commonly known in HSE as "PACE interviews")', 'Records of interviews under caution', 'Legal advice', 'Conducting the interview', 'Significant statement(s) or silence(s) from the suspect', 'Unsolicited comments', 'Oppressive interview techniques', 'Breaks', 'Ending the interview', 'Audio-recorded interview under caution', 'PACE Code E', 'Equipment', 'Recording media', 'Recording the interview', 'Concluding the audio-recorded interview under caution', 'Non audio-recorded interviews under caution - written record', 'Written statements under caution', 'Record of audio-recorded interview - interview transcripts and summaries (LP75)', 'Tape/CD Security', 'Breach of the Codes', 'Pre-interview disclosure', 'Interview by letter/correspondence', and 'Powers of arrest'.

Archived



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Food Safety
Littering
Public Health
Nuisance
Housing

Health and
Safety at
Work etc.
Act 1974



CRIMINAL
INVESTIGATION

Evidential Test

Can the evidence be used in court?

Prosecutors should consider whether there is any question over the admissibility of certain evidence. In doing so, prosecutors should assess:

- the likelihood of that evidence being held as inadmissible by the court; and
- the importance of that evidence in relation to the evidence as a whole.

Is the evidence reliable?

Prosecutors should consider whether there are any reasons to question the reliability of the evidence, including its accuracy or integrity.

Is the evidence credible?

Prosecutors should consider whether there are any reasons to doubt the credibility of the evidence.

Public Interest Test

- How serious is the offence committed?
- What is the level of culpability of the suspect?
- What are the circumstances of and the harm caused to the victim?
- Was the suspect under the age of 18 at the time of the offence?
- What is the impact on the community?
- Is prosecution a proportionate response?
- Do sources of information require protecting?

CPS CODE FOR
CROWN
PROSECUTORS

- EVIDENTIAL TEST
- PUBLIC INTEREST TEST

PACE

- QUESTIONING
- GATHERING EVIDENCE

PACE is one of the foundation of a successful prosecution



Evidential Test

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Cautioning... It's all about the SUSPECT

EMPLOYER

- HSW s2/3
- SOLE TRADER
- LTD COMPANY/PARTNERSHIP ETC

EMPLOYEE

- HSW s7

PERSON IN A SENIOR ROLE

- HSW s37 (1)
committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate

When to Caution?

Police and Criminal Evidence Act 1984 – Code C

Detention, treatment and questioning of persons by police
Officers – **DECEMBER 2023**

10 (a) When a caution must be given

10.1 A person whom there are **grounds** to **suspect** of an **offence**, see Note 10A, must be cautioned **BEFORE** any questions about an offence, or further questions if the answers provide the grounds for suspicion, are put to them if either the suspect's answers or silence, (i.e. failure or refusal to answer or answer satisfactorily) **may be given in evidence** to a court in a prosecution.....



When to Caution?

Police and Criminal Evidence Act 1984 – Code C

Detention, treatment and questioning of persons by police
Officers – **DECEMBER 2023**

10.1A person need **not** be cautioned if questions are for other
necessary purposes, e.g.:

(a) **solely to establish their identity or ownership of any
vehicle.....**



What does all this mean??

1. You are under **NO PRESSURE** to caution provided you do not ask the **suspect** questions about the alleged offence

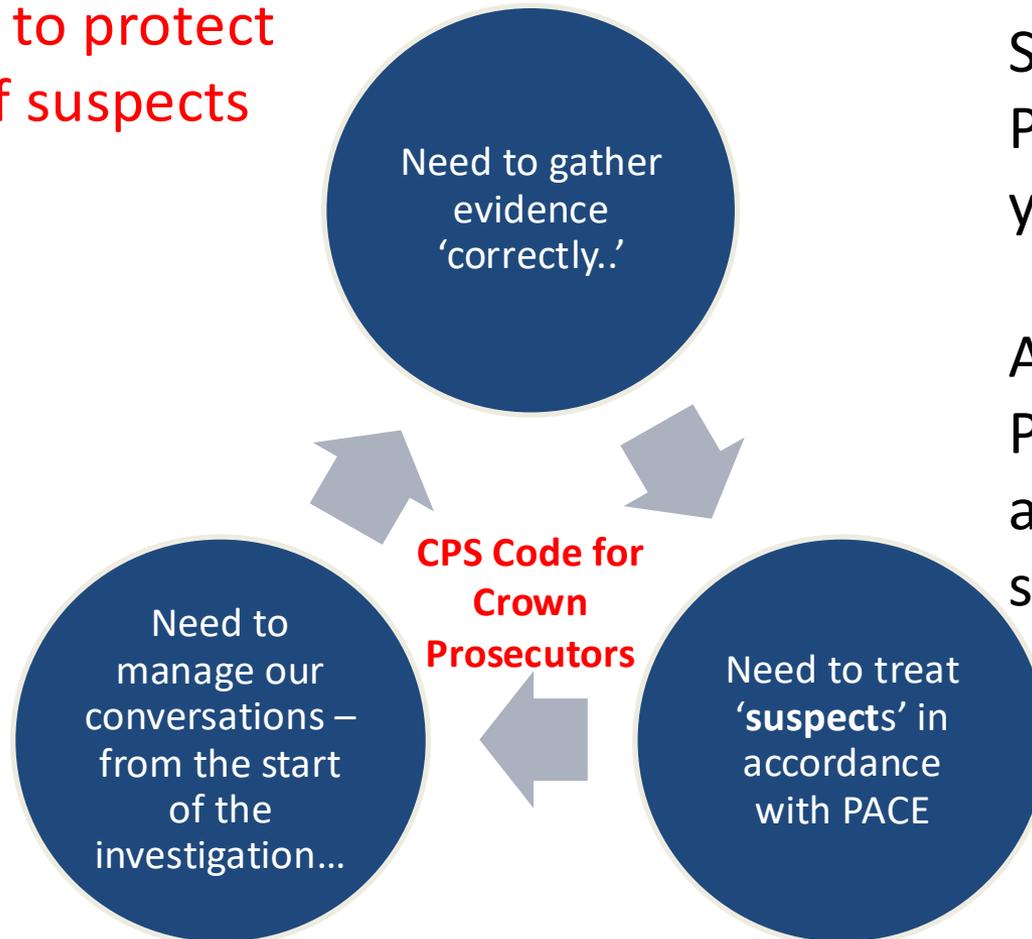
BUT

2. You **MUST** caution a **suspect** if you ask questions about the alleged offence

Therefore.... You have options. Do what suits you, whilst protecting the interests of the suspect (and yourself)

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CPS 2.8 ...**prosecutors**
have a duty to protect
the rights of suspects



Q
So, when does
PACE kick in during
your investigation?

A
Potentially, as soon
as the investigation
starts

2.8 ...prosecutors have a duty to protect the rights of suspects.....



WHAT DO YOU DO?

Self Incrimination



You have a duty to protect the 'suspect'....

WHAT ARE YOUR OPTIONS?

1. You could stop them as soon as they self incriminate themselves and explain why they should stop talking
2. You could interview them under caution on site
3. You could treat this as a significant statement

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You have a duty to protect the 'suspect'....

WHAT ARE YOUR OPTIONS?

- 1. You could stop them as soon as they self incriminate themselves and explain why they should stop talking**
2. You could interview them under caution on site
3. You could treat this as a significant statement

Cautioning Onsite

It's a bit messy.....

- Not under arrest and so suspect can leave at any time
- Suspect is entitled to legal advice
- What if English is not their first language?
- An **accurate** (not verbatim) account of the interview is required – someone has to write down what is being said CoP C para 11.7
- Without the use of recording equipment the conversation will be impeded
- PACE Code E Revised July 2018 – Audio recording **expected**

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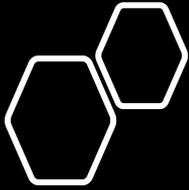
In the context of a health and safety investigation, probably unnecessary but it's your choice

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Significant Statement

Unsolicited Comments e.g. admission of guilt

- Make a record in your PACE notebook. Sign it – record date and time
- Give the suspect the opportunity to read
 1. Sign to confirm accurate..... (I confirm this was an accurate record of what was said) or
 2. State why inaccurate and sign
 3. If suspect does not sign – record this
- **First opportunity under caution, the suspect should be asked to comment and whether they would like to clarify/comment further (PACE Code C 11.4 & 11.4A)**



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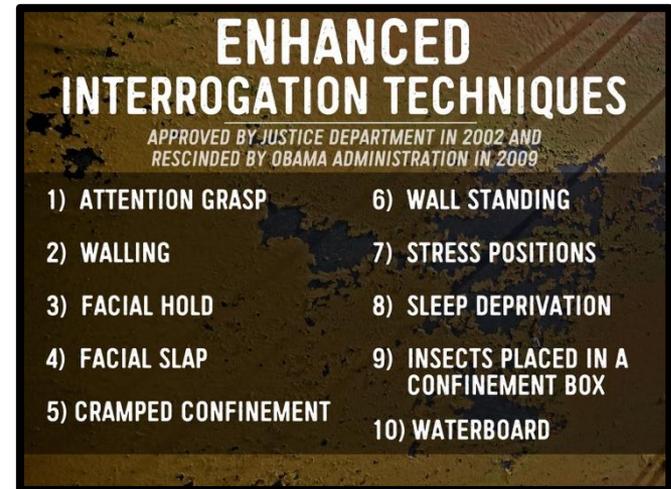
Part 2



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3 Types of Interview

- Voluntary Interview CJA 67 s9
- HSWA s 20 powers (not a statement) (Compelled)
- **PACE Interview (Under Caution)**



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What is an interview?

PACE COP C 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**.

A single question can amount to an interview

.....DOESN'T MATTER HOW BRIEF



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Why do we actually interview **SUSPECTS** under caution??

1. To obtain a **confession**?
2. To obtain an **admission**?
3. The interview may provide important evidence against the suspect, which you may otherwise be unable to obtain
4. The interview may provide important information revealing further lines of inquiry
5. Test your evidence
6. The interview may provide relevant information to be considered in the prosecution decision (ET + PI)
7. You may learn how the suspect will plead and an idea of their defense
8. **Identify you have the correct 'legal entity'**

Does a suspect have to tell the truth under caution?





“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”.

Is it an OFFENCE to lie under caution??

No, but....

- This is the suspects ONLY opportunity to provide an explanation and dissuade you from prosecution
- Harder to mount a strong defence if they fail to mention it now (or mislead)
- Courts will take a dim view – wasting courts time



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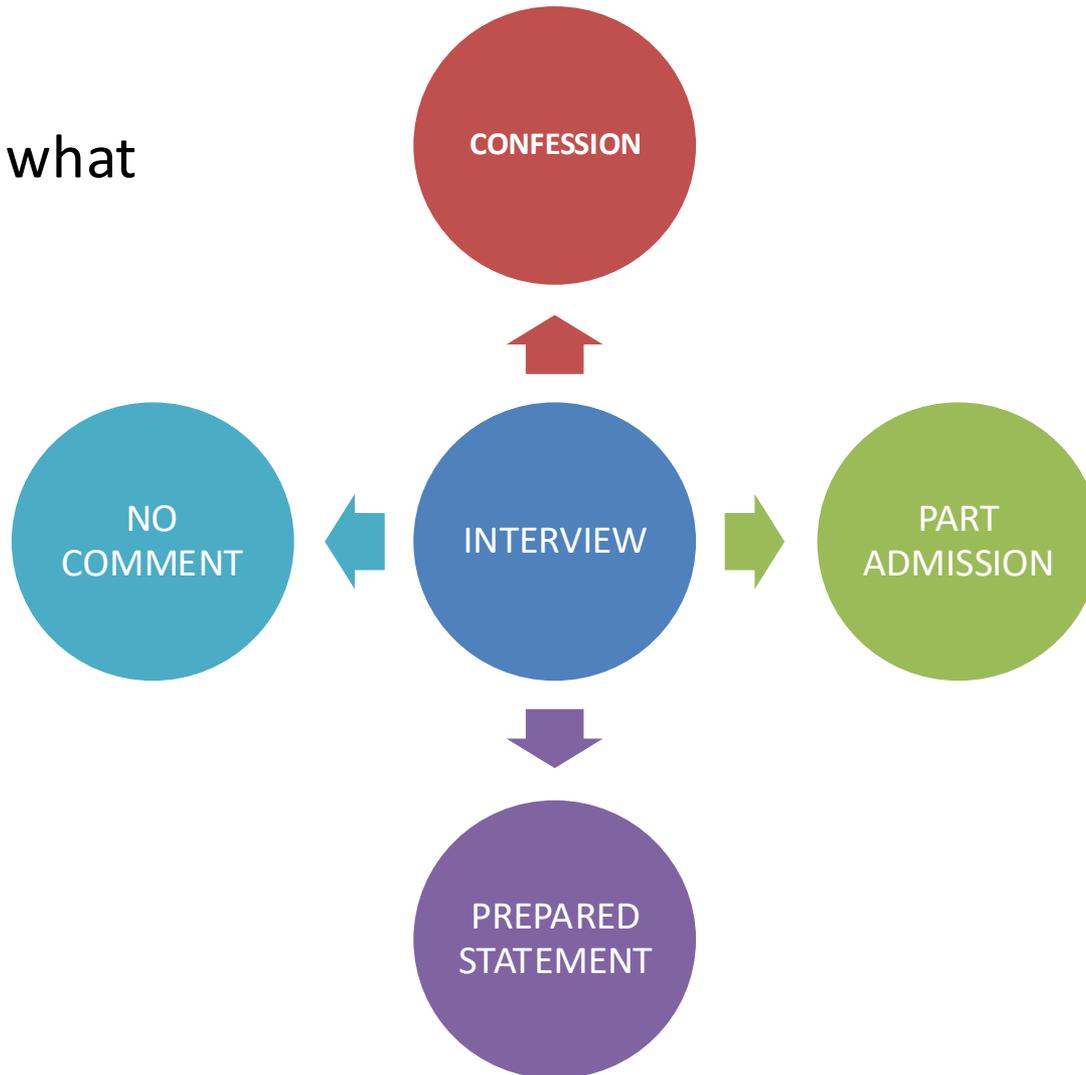
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**Theres only one type
of interview under
caution ? YES or NO**

Definitely No

TYPES OF PACE INTERVIEW **SUSPECT**

Try to find out what their plan is..



TYPES OF PACE INTERVIEW **SUSPECT**

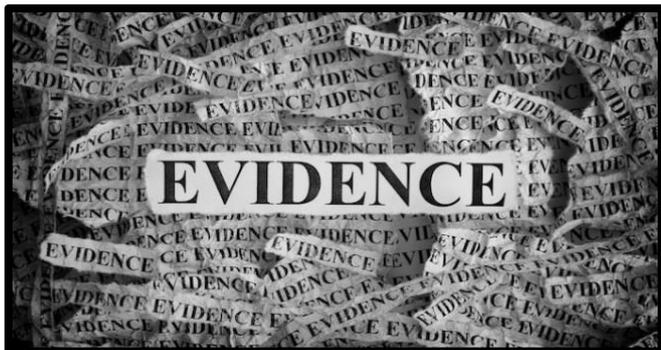
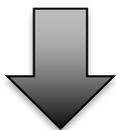
You should go into an interview not needing to find out any further information...





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DISCLOSURE

Dealing With Disclosure



Pre-Disclosure



DAYS
PRIOR TO
THE
INTERVIEW

Police and Criminal Evidence Act 1984 Code C

11.1A ...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....



Pre-Disclosure



DAYS
PRIOR TO
THE
INTERVIEW

Police and Criminal Evidence Act 1984

11ZAWhat 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.

This should be included in your IUC invitation

HOWEVER if you provide nothing, the solicitor may advise a no comment or no show..... It's your call

Pre-Disclosure

DAYS
PRIOR TO
THE
INTERVIEW

Invitation to an Interview Under Caution

Besides the time, date, location, seek legal advice etc..

1. Brief **outline** of the event to set the scene
2. The potential **contraventions** – *HSWA s2 in that the company failed to ensure staff were adequate training in order to safely operate the FLT on site.*
3. Your **reasons to support** this – *at the time of the incident, FLT operators were shown how to operate the FLT by the warehouse manager, who themselves did not have any qualifications to operate the FLT...*



Pre-Disclosure

JUST PRIOR
TO
INTERVIEW

Pre Interview Disclosure

You are under no obligation to disclose all of the information you have against a suspect prior to interview. However, it might suit you to **share** as part of your strategy...

1. Speeds things up to have sight before the IUC
2. May influence the solicitor or suspect to rethink their strategy
3. Do not include statements, but do include photos, documents, objects that are either..
 - a. Known to suspect / solicitor
 - b. Unknown to suspect / solicitor (see point 2 above)

OR.....

THE TADAH MOMENT





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Role of the solicitor

- Whose side are they on?
- Probably better they attend
- Don't be intimidated....

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Role of the Solicitor



‘Solicitor’ in this Code means:

- a solicitor who holds a current practising certificate;
- an accredited or probationary representative included on the register of representatives maintained by the Legal Aid Agency

PACE C 6.12

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Solicitors **ONLY** Role



- Protect and advance the legal rights of their client
- May advise client not to give evidence which may strengthen your case
- Intervene to
 - Seek clarification
 - Challenge improper question or manner in which put
 - Advise not to reply
 - Give further legal advice

PACE C 6D

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Solicitors Role - Unacceptable Conduct



- Prevents or unreasonably obstructs proper questions
- Answers questions for suspect
- Provides written replies for suspect to quote

PACE C 6D

Potential conflict of interest where the solicitor acts for both parties where >1 suspect



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IUC by Letter



Dear Mr Smith,

Health & Safety at Work etc. Act 1974
The Police and Criminal Evidence Act 1984

As you are aware, I am investigating the circumstances surrounding the incident that occurred on the DATE at LOCATION. The brief details are as follows.

BRIEF OUTLINE OF INCIDENT

To assist me further in my investigation, I would now like to invite you to answer questions under caution, with a view to determining whether there have been any breaches of legislation, which may include:

- Health and Safety at Work etc. Act 1974 s....
- OTHERS

This is not an exhaustive list and other matter may arise depending on the response to this letter.

Areas of interest will include:

SET OUT THE AREAS COVERED BY THE QUESTIONS E.G. TRAINING, MAINTENANCE, RISK ASSESSMENT ETC.

I can confirm that you have already declined the invitation to attend a face-to-face interview under caution and therefore, I would now like to give you the opportunity to provide a written response to my questions. Please note, the following questions will be asked under caution and therefore any answers given may be used in evidence should this matter result in legal proceedings, and you are therefore strongly advised to seek legal advice before responding.

You do not have to respond to this letter, but it may be in your interest to do so either directly, or via a nominated representative who is authorised to speak on your behalf (normally a legal advisor). In particular, this is a formal opportunity for you to provide an explanation about the circumstances surrounding this incident and to provide any other information that may assist the investigation.

CAUTION

Police and Criminal Evidence Act 1984 (PACE) codes of practice

Please be advised the relevant Code of Practice relating to the questioning of suspects is Code of Practice C. Copies of this code of Practice can be downloaded from the Gov.uk webpages.

Prior to answering the following questions, please read the caution stated in bold type below:

"You do not have to say anything. However, 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."

Another way of putting the caution

There are a number of questions that I would like to ask you, but you have the right not to answer any of the questions if you do not want to.

However, if this goes to court and you tell the court something that you could have mentioned now, then the court MAY question why you did not answer the questions or cast doubt on the answers you give in court.

Any response that you now give, could be shared in court.

Please confirm that you have read and understood the caution:

Signed:

Print Name:

Position:

QUESTIONS

Set out your questions below.

INTERVIEW UNDER CAUTION BY LETTER

It's your call...

- It's not an IUC
- The answers will have been carefully considered, however.....
- They can't say they weren't given the opportunity
- Enforcement Concordat... regulator gives the suspect the opportunity to put forward their opinion before a decision is made
- Play the game.....





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PACE Code B Search



Resurrecting a dead horse? PACE Code B and local authority enforcement powers

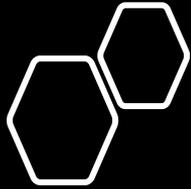
15.MAY.2025

The case of *Dudley Metropolitan Borough Council v Debenhams plc* (1995) 159 JP 18 is a case in point. A trading standards officer ('TSO') exercised lawful powers of entry under section 29 of the Consumer Protection Act 1987 to one of Debenhams' premises.

High court ruling.. A 'search' and so Provide Notice of Powers and Rights (PACE Code B)

In practice, provided local authorities and their officers stay within their statutory powers, PACE Code B is unlikely to apply to their powers of entry, search, inspection, or seizure. But, where there is overreach, these battle lines are likely to emerge.

Dan Jacklin is a barrister at St Philips Chambers.



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