

WILTSHIRE POLICE FORCE POLICY



Contemporaneous Note Interviews

Effective from: March 2015
Last Review Date: February 2016
Version: 2.0
Next Review Date: February 2018

POLICY STATEMENT

The use of contemporaneous notes for interview is governed by the Police and Criminal Evidence Act 1984 - Codes of Practice.

The Codes of Practice are clear that in most circumstances audio recording shall be used for any interview.

For any interview in relation to an indictable offence (which includes triable either way offences) audio recording will be used. Changes to the Code of Practice in 2013 extended the need for audio recording to 'any interview' and not just interviews at police stations.

Whilst in certain circumstances, on the authority of an officer of at least the rank of Sergeant, a contemporaneous note interview can take place, the default position is that an audio recording will be conducted.

Any decision to use a contemporaneous note interview for an indictable or either-way offence can only be taken if there are no other possibilities, it is authorised by an officer of at least the rank of Sergeant and the decision is defensible and can be fully justified. The codes of practice state, "A decision not to audio record an interview for any reason may be the subject of comment in court. The authorising officer should be prepared to justify the decision".

Under no circumstances will a contemporaneous note interview be undertaken without the authorisation of an officer of at least the rank of Sergeant.

The reasons for audio recording are as follows:

- To ensure the integrity of the giving and understanding of the caution
- To ensure the integrity of the right to free and independent legal advice free from outside influences
- To ensure the integrity of the interview
- To ensure the integrity of conducting the interview away from outside influences
- To protect the victim, suspect and interviewer

Under no circumstances will contemporaneous note interviews be undertaken for the following offences:

- Serious assaults (i.e Section 20 GBH and above)
- Serious sexual offences
 - Rape;
 - Sexual assault by penetration;
 - Sexual assault where the assault is particularly serious or features of the offence are aggravated;
 - Causing a person to engage in sexual activity without consent;
 - Any other offence of a sexual nature deemed especially serious by the investigating officer (IO);
 - An attempt to commit any of the above offences.
- Robbery
- Burglary dwelling
- Domestic abuse incidents
- Hate crime
- Child and vulnerable adult offences
- Offences involving repeat victimisation

The only exceptions to the rule of audio recording are as follows:

Audio recording shall be used for any interview unless authority is given by:

- the custody officer in the case of a detained suspect, or
- an officer of the rank of sergeant or above in the case of a suspect who has not been arrested

If a detainee refuses to go into or remain in a suitable interview room and the custody officer considers, on reasonable grounds, that the interview should not be delayed the interview may, at the custody officer's discretion, be conducted in a cell using portable recording equipment or, if none is available, recorded in writing

Otherwise, four conditions need to be met:

Please note, these conditions are designed to facilitate the expeditious and proportionate use of out of court disposals, e.g. Cannabis/Khat street warnings, the issue of FPNs and the use of restorative practices.

1. The person has not been arrested.
2. The interview takes place elsewhere than at a police station
3. The *indictable* offence in respect of which the person has been cautioned is *one* of the following:
 - (a) Possession of a controlled drug contrary to section 5(2) of the Misuse of Drugs Act 1971 if the drug is cannabis as defined by that Act but it is not cannabis oil
 - (b) Possession of a controlled drug contrary to section 5(2) of the Misuse of Drugs Act 1971 if the drug is khat as defined by that Act
 - (c) Retail theft (shoplifting) contrary to section 1 of the Theft Act 1968, not exceeding the value of £100
 - (d) Criminal damage to property contrary to section 1(1) of the Criminal Damage Act 1971, not exceeding the value of £300

In this paragraph, the reference to each of the above offences applies to an attempt to commit that offence as defined by section 1 of the Criminal Attempts Act 1981.

4. (i) the person suspected of committing the offence:
 - appears to be aged 18 or over;
 - does *not* require an appropriate adult
 - appears to be able to appreciate the significance of questions and their answers;
 - does *not* appear to be unable to understand what is happening because of the
 - effects of drink, drugs or illness, ailment or condition; and
 - does *not* require an interpreter
- (ii) it appears that the commission of the offence:
 - has *not* resulted in any injury to any person;
 - has *not* involved any realistic threat or risk of injury to any person; and
 - has *not* caused any *substantial* financial or material loss to the private property of any individual.

On the rare occasions that circumstances dictate that there are no alternatives to conducting a contemporaneous note interview the reasons for the interview not being recorded electronically and any unsolicited comments made by a suspect outside the context of the recorded interview, must be fully recorded in the officer's pocket note book.

On these occasions the interview must be conducted under caution and the interviewee must be informed that they are not under arrest, that they are free to leave at any time and that they are entitled to free and independent legal advice. These rights must be recorded on the record of interview and the replies from the interviewee recorded in full and signed.

The interview should be recorded verbatim and each reply should be signed and confirmed by the interviewee.

POLICY AIM

The aim of this policy is to ensure interviews are recorded in the most appropriate way and to provide officers and staff with guidance necessary for conducting a Contemporaneous Note Interview when and if necessary. This policy should be applied in all cases.

APPLICABILITY

This policy applies to all officers and staff dealing with criminal offences.

LEGAL BASIS AND DRIVING FORCE

To comply with Codes of Practice and good practice.

RELATED POLICIES, PROCEDURES and OTHER DOCUMENTS

Police and Criminal Evidence Act 1984 - Codes of Conduct
Conduct Regulations
National Occupational Standards
Force values and behaviours
Domestic Abuse policy and procedure
Hate crime policy and procedure

AUTHORISED PROFESSIONAL PRACTICE

[Investigation](#)
[Major Investigation and Public Protection](#)
[Detention and Custody](#)

DATA PROTECTION

Any information relating to an identified or identifiable living individual recorded as a consequence of this policy will be processed in accordance with the Data Protection Act 2018, General Data Protection Regulations and the [Force Data Protection Policy](#).

FREEDOM OF INFORMATION ACT 2000

This document has been assessed as suitable for public release.

MONITORING AND REVIEW

This policy will be reviewed in February 2018 by The People Services Department. User feedback and evidence from Contemporaneous Interviews being conducted will be used to assess the effectiveness of this policy.

WHO TO CONTACT ABOUT THIS POLICY

The People Services Centre

DOCUMENT ADMINISTRATION**Ownership**

Department Responsible: People Services
 Policy Owner: Karen HOWLETT
 Technical Author: Graham FISHER
 Senior Officer/Manager Sponsor: Zoe DURRANT

Revision History

| Revision Date | Version | Summary of Changes |
|---------------|---------|---|
| March 2015 | 1.0 | V0.2 adopted by ACO and JNCC as v1.0 |
| December 2015 | 1.1 | Policy Statement amended to reflect revision to Code E re exemption of four types of offences from the requirement that interviews of individuals regarding indictable offences must be audio recorded. |
| February 2016 | 2.0 | V1.1 published as substantive version 2.0 |
| May 2018 | 2.0 | Data Protection section amended to reflect implementation of GDPR and new DPA. |

Approvals

This document requires the following approvals:

| Name & Title | Date of Approval | Version |
|-----------------------------|------------------|---------|
| Continuous Improvement Team | 02.02.2016 | 1.1 |
| ACO Zoe DURRANT | | 1.1 |
| JNCC | 18.03.2015 | 0.2 |

Distribution

This document has been distributed via:

| Name & Title | Date of Issue | Version |
|--------------|---------------|---------|
| E-brief | 02.04.2015 | 1.0 |

Diversity Impact Assessment

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|--|---|
| Has a DIA been completed? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| If no, please indicate the date by which it will be completed. | Date: |
| If yes, please send a copy of the DIA with the policy. | |

Consultation

List below who you have consulted with on this policy (incl. committees, groups, etc):

| Name & Title | Date Consulted | Version |
|---|----------------|---------|
| T/Supt Adrian Burt | 14.12.2015 | 1.1 |
| Karen Howlett, DI Ron Peach, Paul OATWAY, Carolyn Deverall, Frances Brennan | 14.12.2015 | 1.1 |
| Federation – Mel Rolph | 29/01/2016 | 1.1 |

Implications of the Policy

Training Requirements

Included within IPLDP training

IT Infrastructure

No requirement