

## Voluntary Attenders

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## Policy Statement

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### Summary

West Yorkshire Police (WYP) recognise the benefits of interviewing suspects under caution but without recourse to arrest and detention. This means is supported by Code G of PACE and the National Police Chiefs' Council Custody Strategy.

The aims of this policy are to define:

- The circumstances under which a suspect may be interviewed voluntarily as an alternative to arrest and detention;
- The circumstances under which a suspect may be deemed suitable for interview away from a police station, such as at their home address; and
- The procedures applicable when interviewing a suspect who has attended voluntarily.

Whilst it is recognised that a non-custody approach can be more convenient and efficient than custody, this approach presents a number of risks that were previously addressed as part of the custody process which now have to be managed as part of the voluntary interview environment.

This policy will identify and address these risks including, where appropriate, guidance on how to minimise those risks.

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### Scope

This policy applies to:

- All police officers and police staff;
  - All persons interviewed voluntarily, both at a police station and at a remote location. Where the abbreviation "VA" is used it applies to any interview under caution, not in detention, at any location;
  - All interviews under caution of adult and youth suspects; and
  - Any suspect prosecuted without arrest or interview under caution who is subsequently prosecuted by postal charge/summons.
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## Principles

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### General

- West Yorkshire Police's Criminal Justice department promotes the appropriate use of voluntary interviews (VI) through training, monitoring and feedback to individual officers and their supervisors. This involves consideration of the suitability for interview and compliance with this policy.
- Voluntary interview records are regularly monitored for appropriateness and suitability, both by the supervisor following completion and by internal audit by Criminal Justice.
- All officers and staff are required to be familiar with this policy and the supporting information when considering the interview of any suspect.

- It is recognised that it is often more operationally expedient to invite suspects to attend for interview at a mutually convenient time rather than arrest and detain.
- The decision to interview without arrest does not remove the legal and moral responsibilities of the investigating/interviewing officer which would have applied had the suspect been arrested. Furthermore, the majority of responsibilities of the Custody Officer in the detention area are now the responsibility of the interviewing officer.
- Any and all risks must be assessed before the interview is authorised and before the interview commences.
- VI are only appropriate for reliable suspect. Occasional failure to attend may be acceptable, but repeated postponements without justification must be considered for arrest.

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#### Location

- This policy will apply wherever a decision is made to interview a suspect, other than in police detention, under caution.
- This policy will apply to interviews conducted at a police station.
- This policy will also apply to pre-arranged interviews conducted elsewhere than at a police station.
- A pre-arranged interview is any interview that takes place other than at the immediate time and location of the apprehension of the suspect.
- Each police station has at least one dedicated Voluntary Interview room. Interviews must take place in these rooms unless exceptional circumstances apply.
- **It will never be appropriate to conduct a VI in an operational custody suite.** Each location with an operational custody suite has at least one VI room in the same station which must be used instead.
- Any interview to be conducted in a non-operational (resilience) custody suite must be authorised in advance and documented on the OEL by HQ Custody Services.

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#### Framework

- The framework for dealing with and interviewing suspects has three strands:
  1. Arrest, following which there are three options:
    - Matter finalised before release;
    - Released on bail; or
    - Released not on bail, but under investigation (RUI).
  2. Voluntary interview at any location, following which there are two options:
    - Matter finalised before completion; or
    - Delayed for further enquiries/decisions.
  3. Matter dealt with immediately on the street without VI.
- The strands are not mutually exclusive and in particular the RUI and VI options are closely linked. This policy will define the limits and interactions between RUI and VI.

**Illegible indicators**

- Voluntary interview will **not** be suitable where the identity of the suspect may be in doubt. In such circumstances, individuals must arrest to obtain biometrics and confirm ID.
- It also may not be suitable where:
  - The suspect has a history of failing to answer bail or breaching court orders. In such circumstances, individuals must arrest and utilise bail to ensure attendance;
  - The circumstances of the offence require police powers which are only available following an arrest; and/or
  - The offence involves a degree of seriousness, including violence or intimidation where a remand or bail with conditions may be utilised to protect victims and witnesses.

## Responsibilities

### Interviewing Officer (IO)

**Before the suspect attends**

The investigating officer (IO) must:

- Conduct PNC and local system checks in order to identify any risks or vulnerabilities which may have been recorded from previous interviews or periods in police detention;
- Ascertain the need for interpreters and/or an appropriate adult and ensure arrangements are in place for one to attend for the interview as required;
- Offer access to free and independent legal advice when scheduling the interview; and
- Establish the required information in relation to Common Law Police Disclosure.

**When the suspect attends**

The IO must:

- Inform the attendee that they are not under arrest and free to leave at any time;
- Inform the attendee of their rights and entitlements as set out in PACE codes C and E in relation to legal representation and interpreters. A notice of these entitlements must be given to the attendee;
- Provide Disclosure to any legal representative prior to commencement of the interview;
- Before commencing the interview, risk assess the suspect and identify measures to:
  - Ensure the safety of the suspect;
  - Protect the rights of the suspect;
  - Protect the general public.

The risk assessment must be recorded when the suspect arrives to be interviewed and before the interview begins;

- Risk assess the attendee in order to inform decision making in relation to:

- The need for an appropriate adult; and
- The suspect's fitness for interview, including but not limited to:
  - Mental health;
  - Learning difficulties;
  - Intoxication level;
  - Substance misuse;
  - Communication issues; and/or
  - Ability to understand.

Where the IO, suspect or suspect's representative raise doubts about their fitness for interview, a professional opinion must be sought before commencement;

- If unsure of the suitability for interview, take supervisory advice; and
- Obtain from the attendee their current occupation, address, telephone number and email address at the beginning of the interview. The information given will be recorded in the appropriate places provided on the VA Record.

The occupation and address must be verified using the Niche 'set last verified time' function to document that the occupation and address have been checked.

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**If the interview is away from the station**

- The IO must ensure the location is suitably sound proofed and that any conversation cannot be overheard outside the room. It must also afford privacy and be secure from interruption.
  - The risk assessment must be completed on the paper risk assessment form.
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**Live video link actions**

- The IO must ensure the subject's location affords privacy and is secure from interruption for the expected duration of the interview.
  - It will not be appropriate to conduct a live video link interview using insecure Wi-Fi or open networks.
  - When conducting the risk assessment, the subject must be heard to agree to it on the live video link call.
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**Recording the interview**

- All interviews in a police VA Room must be recorded on the Digital Interview Recording System (DIR) equipment provided.
- Interviews authorised to be conducted via live video link must take place with the officer in the VA Room and the conversation will be recorded on the DIR equipment in the VA Room.
- Interviews authorised to be conducted away from the police station must be recorded on portable DIR equipment unless the offences interviewed for are summary only, in which case Body Worn Video (BWV) with a contemporaneous note summary is permitted.
- It will not be appropriate to interview away from a police station for an indictable offence (including either way) other than by means of a Home Office approved recording device.

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**Before the attendee leaves /live video link is terminated**

- The circumstances under which the attendee is leaving the station must be recorded as the appropriate disposal before they leave.
  - A departure risk assessment must be completed before the attendee departs and they must be offered access to Liaison & Diversion services before departure, and the relevant referrals made.
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**Actions following the interview away from the station**

- A paper copy of the departure risk assessment must be completed and the attendee must be offered access to Liaison & Diversion services before the officer departs.
  - The relevant referrals must be made when they have returned to the station.
  - The electronic record must be completed as soon as reasonably practicable following conclusion of the interview, but in any case within 24 hours.
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## Supervisor

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**Suitability of circumstances and location**

- Before authorising a suspect for VI, a supervisor of at least the rank of sergeant must assess the overall circumstances of the case, confirm that it does not satisfy the arrest necessity test and is suitable for VI.
  - Having determined that the suspect is suitable, the supervisor will verify that the IO has complied with the requirements of PACE Codes C and E and made necessary background checks.
  - All VI are to take place and be recorded at a police station unless specified exceptional circumstances apply.
  - For specified low level offences, it may also be appropriate to conduct the Interview remotely by live video link, ensuring that all participants can see and hear each other.
  - Exceptional circumstances are generally limited to occasions where:
    - The suspect is too ill to attend; or
    - There is an operational necessity to interview immediately.
  - Interviews may take place on non-police premises, but each venue must be risk assessed, provide privacy and be secure from outside intrusion.
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**Method of recording**

- It is best practice that all interviews are digitally recorded, using the approved DIR equipment in a VA Room. All interviews must be recorded on the DIR equipment provided, regardless of offence type.
- Authorised interviews via live video link must take place with the IO in a VA room and DIR equipment used to record the conversation.
- Interviews authorised to be conducted away from the station must be recorded on a portable DIR or other Home Office approved device. Where a device is not available then interviews for either way offences must be postponed until either:
  - A device becomes available; or
  - The suspect is able to attend a police VA suite.

- For summary only and specified either way offences, contemporaneous notes may be taken.

#### Appropriate adults

- Where the suspect requires an appropriate adult, the interview must be conducted in a police station VA room to ensure the gravity of the situation is fully understood.
- In exceptional circumstances, suspects requiring an appropriate adult may be interviewed elsewhere only if a fully trained member of the Appropriate Adult Network is present – not a family member.

#### Documenting the decision

- The supervisor must document on the OEL **before** the interview takes place:
- Confirmation of suitability for interview;
  - Confirmation the IO has performed the required checks;
  - Confirmation of the authorised location for the interview; and
  - Confirmation of the means by which the interview will be recorded.

#### Validating the interview record

- Following completion of the interview, the supervisor must open the electronic VA record on Niche and check for quality and completeness.
- The findings of the review must be recorded as an Attendance Log entry on the VA Record and any issues with the record must be communicated to the IO for future reference.

## Documentation

#### Principles

- All voluntary interviews must be documented using the Niche Voluntary Attendance (VA) record. This applies to the following:
  - Where suspect and IO are in a dedicated VI room at a police station;
  - Where the suspect and IO have arranged for the interview to be conducted over live video link as detailed below; and
  - Where the officer leaves the station, in exceptional circumstances as detailed below, to interview the suspect at a remote location.
- The record must be completed in real time before, during and after the interview and will constitute a complete record of the interviewee's attendance and interaction with the IO.
- There is **no** alternative method. However, where the suspect is interviewed immediately on being apprehended for the offence and provided the matter is dealt with at the time (by immediate issue of an Out of Court Disposal (OoCD) or instant No Further Action (NFA)), then an electronic record will not be required.

## Biometrics

## Principles

- There is no power to obtain biometrics from voluntary interviews, but they may be obtained after interview, where a relevant positive disposal has been determined, as listed below:
  - Any type of Caution – Individuals must arrange for the biometrics to be taken immediately if equipment is available, or book an appointment at a convenient custody area within four weeks.
  - Report for Summons/Postal Requisition – Arrangements will be made by CPB when the summons/requisition is posted out.
- There is **no power** to obtain biometrics for a Community Resolution (CR).
- For live video link interviews, a screenshot is appropriate unless the subject has refused, in which case no screenshot of any part of the interview is permitted.
- Where the subject offers biometrics for elimination purposes, these are **not** to be recorded on the VA Record.
- A separate method is to be used as described in the Biometrics policy for elimination samples.
- The only Out of Court Disposal (OoCD) available for delivery on the street is a Community Resolution, which has no power to obtain biometrics. It is therefore vital that, before issuing a CR to a suspect, the officer positively verifies their identity and records the proof(s) on the OEL, including all reference numbers.
- It is the officer in the case's (OIC) responsibility to obtain biometrics once a positive disposal has been determined.
- The following guidance information must be adhered to – Biometrics guide for VA and Biometrics Process Map.

## Threat and risk-based criteria

- A defined threat and risk-based criteria must be applied to determine whether biometrics should be obtained from an individual when reported for summons or cautioned following a VA.
- Biometrics need not be taken for individuals who satisfy this criteria:
  - DNA – If the individual is already DNA confirmed, there is no need to re-take DNA;
  - Fingerprints – If fingerprints have been obtained within the last two years, there is no need to re-take fingerprints, unless new marks or scars are apparent/known; and
  - Photograph – If an image is already held on Niche, and the appearance of the individual has not changed significantly, there is no requirement for a new photograph to be taken,**unless,**
  - The identity of the individual is in question;
  - Aggravating factors exist; and/or
  - There is a qualifying offence.



## Additional Information

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### Compliance

This policy complies with the following legislation, policy and guidance:

- Police and Criminal Evidence Act 1984 (PACE)
  - Data Protection Act 2018
  - APP Detention and custody
  - Custody and Detention (Including TACT Custody) policy
  - Out of Court Disposals policy
  - Pre-Charge Bail and Released Under Investigation (RUI) policy
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