



Interview Under Caution FAQ's

The fundamental objective of Foster Carers, Care Agencies, Government bodies, the Police, and the Courts is to ensure the welfare of the cared-for child is protected. There is a broad range of requirements and responsibilities to adhere to and resulting processes that will be followed where concerns are raised. It should be stressed that not all matters result in formal intervention by the Police, and indeed those that do, do not automatically progress beyond an initial interview on to formal prosecution. However, in the event that an issue arises, the following information will help explain how the police will potentially engage with you (in order to establish the facts relating to an allegation) and whether any further action/intervention will be required.

1. What is an interview under caution?

When the police investigate allegations of criminal conduct they will, in nearly all cases, seek to find out what the person suspected of the criminal conduct has to say in response to the allegation. The police are bound to follow strict rules when they seek to further an enquiry in this way.

Interviews under caution must be recorded, occasionally in writing but more usually in audio or audio/video recording is made. They should take place at a police station. The suspect has to be informed of their right to have legal advice and the interview must start with a form of warning known as a "caution". That is why such interviews are called "interviews under caution".

The police objective in interviewing the suspect will get to get to the bottom of the truth or otherwise of the allegation made against the suspect; and to gather evidence to support a prosecution if, on balance, the evidence gathered in the course of the investigation is judged to be sufficient for there to be a realistic prospect of the alleged offence being proved to the satisfaction of a criminal court.

What a suspect tells the police when interviewed can form an important part of the case against that person if they are subsequently prosecuted. If a suspect admits criminal conduct then, if prosecuted, the case against the suspect will be very strong. Even if a suspect does not admit the alleged offence he may say things that are inconsistent with the defence he puts forward during the proceedings or which are, deliberately or inadvertently, untrue. Things said of this nature can help a Prosecutor prove a charge whereas if the account given in the interview is entirely consistent with the defence put forward in the proceedings the prosecutor's position would not be as strong.

Because of the significance of things said by suspects in an interview to the criminal process, there are strict rules to ensure that the suspect has an opportunity to consider the importance of the account he may or may not put forward in the interview, for him to be advised about all of the implications of an account he might put forward, and to be advised about the desirability, in some cases, to put forward no account at all.

The rule that the interview is recorded ensures that there is no dispute about precisely what the suspect was asked and what he said in response.

2. Who do I need to contact if I am told by police that they wish to interview me under caution?

You should contact Foster Talk without delay. Foster Talk will put you through to a legal help-line which will take all the relevant details known at that time and put you in touch with a solicitor who will contact you and make all the necessary arrangements to ensure that you are represented when you are interviewed.

3. Will I be arrested or can I make my own arrangements to attend the police station?

The police have the power to arrest anyone where there are reasonable grounds to suspect the person of an offense and arrest is necessary in order to ensure the prompt and effective investigation of the allegation. Generally speaking, where the allegation is of very serious misconduct the police are likely to exercise their power to arrest. Where the allegation is of a less serious character they are more likely to take the view that the interview can be a voluntary one in other words decide not to arrest the suspect but to trust him to attend the police station at an appointed date and time.

4. If the police say that they want to conduct a voluntary interview under caution and ask me to attend the police station do I have any option but to attend?

The short answer is no. If you decline to attend a voluntary interview or you frustrate the police in their efforts to arrange such an interview they will very likely take the view that it is necessary to arrest you in order to ensure that an interview goes ahead.

5. What do I need to take with me?

The interview process from arrival to departure from the police station can last anything from 1 hour to 6 hours. Generally speaking, one could expect the process to last approximately 1 – 2 hours. You don't need to take anything in particular but it would be helpful if you bring to the interview any documents which you think throw light on the allegation or the credibility and reliability of the person making the allegation. You may have detailed records showing your day-to-day dealings with a foster child and these can be very important in supporting your version of events.

6. Will a solicitor attend an interview with me?

The short answer is yes if you want a solicitor to attend with you. We would advise you very strongly to exercise your right to have a solicitor. Some people, erroneously, believe that asking for a solicitor to advise and assist them shows that they are guilty or have something to hide. That is not the way the police, or the courts think about the role of a solicitor or the motive of a person who chooses to exercise their right to have one. Solicitors are an important part of the process. The advantages of having a solicitor are that the solicitor will ascertain the details of the allegation before you are interviewed; he or she will discuss the details of the allegation and your response prior to the interview, the solicitor will discuss what is in your best interests to do when you are interviewed, whether to give an account or no account or a limited account; and the solicitor will ensure that you put on record during the course of your interview any fact which you might later rely on at your trial in the event that you are charged with an offense.

7. What happens when I meet the solicitor – will they meet me earlier to discuss the circumstances of the allegation?

The solicitor will speak with you on the telephone prior to the date and time for an interview to obtain relevant information and to advise you generally but he will not know the full detail of the allegation until he meets the interviewing police officer on the day of the interview. Occasionally, investigating officers are happy to provide written disclosure of the details of the allegation, in writing, prior to the date of the interview. The solicitor will arrange to meet you 15 – 30 minutes prior to the interview appointment date and time so that there is a chance to make your acquaintance and to make you feel confident and at ease.

8. What happens when my solicitor and I go into the police station?

You will walk into the reception of the police station and ask for the interviewing officer. He will come out into the reception area and usher you into the police station. Your Solicitor will, first of all, have a consultation with the officer. He will supply information to your solicitor about the allegation. The police are bound to do this. Your solicitor will seek to obtain as much information as he can and to clarify any matter which is not clear from the disclosure provided. Increasingly, the police provide written disclosure of the allegation, and sometimes that disclosure can be rather brief. The solicitor will endeavour to obtain as much information as he can in addition to that written down.

After this initial consultation with the Investigating Officer which generally lasts between 5 – 10 minutes, your solicitor will come and speak with you. Your consultation will be in private. Your solicitor will tell you the information he has gleaned and obtain your account of the facts. He will then advise you on what is in your best interests. Generally speaking, where a suspect denies the alleged offence it makes sense to put on record his defence when interviewed, in order to avoid a Court in any subsequent prosecution concluding that his failure to mention the facts relied upon indicates that he fabricated his defence or that he was unwilling to put forward an account in case he was contradicted.

9. Will I be told who has made the allegation?

Yes, whilst the police and others, prior to the interview can be rather reticent about disclosing the names of witnesses there can be no effective enquiry into your account unless the police disclose the identity of the people who are making the allegations.

10. How long will the interview take?

Interviews can take a long time. Occasionally, where there is little substance to the allegation and the investigating officer is very ready to accept the explanation put forward, the interviews can last as little as 10-15 minutes. Generally speaking, however, they last much longer. Typically interviews last between 45 minutes and 1 ½ hours.

11. What will happen after the interview?

The police, in some cases, will inform you of their decision that there will be no prosecution or any formal police action. That is the exception which tends to be the way where the allegation lacks substance. What is far more common is for the police to tell you that they will seek to make further enquiries and/or to obtain the advice of a prosecutor about whether there is sufficient evidence to bring a prosecution or not. Usually, there is a substantial period of weeks, and sometimes months, before you will learn of the outcome of the investigation.

12. Will I be subject to any obligations after the police interview?

This will depend on whether the interview was voluntary and not 'under caution' or following arrest and under caution. If it is the former then the police cannot impose any bail conditions. Bail is explained further below. It is always prudent to ask the reason why you are being asked to attend an interview voluntarily or otherwise. Remember, following a voluntary interview the police may wish to interview you formally, at which point you should always request legal representation before the next interview is held. If you are subject to arrest and an interview 'under caution' then the police will very likely bail you to return on a later date and will, in such cases, have the power to impose bail conditions. 'Bail' describes the process and conditions by which you are released i.e. not held in custody and certain conditions that are then placed upon you.

For example, you may be requested not to have contact with named individuals, or continue to live at a particular address. These conditions are normally imposed for a set period of time, or until you are contacted further by the police and should be reasonable and proportionate. If they are not you have the right to apply to a Magistrates Court for the conditions to be varied or removed. Reported failure to adhere to these conditions may result in your arrest and you being brought before the Magistrates Court where you could be charged with an offence and/or taken into custody.

13. Do I need to inform the local authority/care agency?

In all likelihood, the local authority and care agency will already be aware of the allegations. The allegations very often arise in the course of communications between a foster child and a member of the local authority or care agency. In the unlikely event that such allegations are not known to the Local Authority or Care Agency, it would be prudent to keep them in the picture lest they feel that you have not been open with them as they might reasonably expect you to be.

14. Do I get a copy of the meeting notes/will I need to sign anything?

The record of your interview will be contained in audio or DVD. It will be sealed and the seal will be signed by you. The police record a master copy and a working copy. The master copy is only opened in the event that the recording is used in court. Only if you are charged with an offence will your legal representative be able to obtain a copy of the interview recording, which they will have sufficient time to discuss with you prior to the first hearing date.

15. What happens if I am charged?

If a decision is made to bring a prosecution then you should get in touch with your solicitor without delay. He will take steps to secure your representation in the proceedings.

If you are a FosterTalk member and you require legal assistance please contact us on 0121 758 5013 or via your 24 hour membership helpline.