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HEDD
POLIC

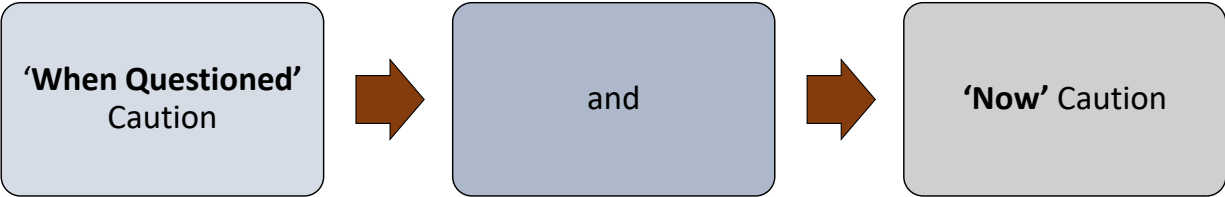
Cautions and Significant Statements

V2.0

Objectives:

1. **State** when and why the, “when questioned” and “now” caution should be used.
2. **Repeat** the, “when questioned” and, “now” caution.
3. **Identify** when the caution should not be used
4. **Identify** what circumstances constitute and interview
5. **Describe** what is meant by a significant statement, silence and unsolicited comment.
6. **Explain** what information needs to be recorded and why

Two Types of Caution



The 'When Questioned' Caution

What words appear in the caution?



Group Activity 1 – split the class into 4 groups and Trainer to hand the envelope to students of the 'when questioned' caution which has been broken down into words. Students to arrange the words into what they think the caution is.

Online Activity - Ask students what words do they think appear in the caution.

Write them on the white board

(you may get the American version)

The 'When Questioned' 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.



Before questions are asked

Group Activity 2 – students in pairs to read the caution out loud to each other

When should you caution someone?

When you have the grounds to suspect an offence has been committed

and

you want to ask questions regarding their involvement or suspected involvement in that offence as an offender



QTS – when do you caution a person?

e.g. person suspected of shoplifting or having broken a window

Definition of an Interview

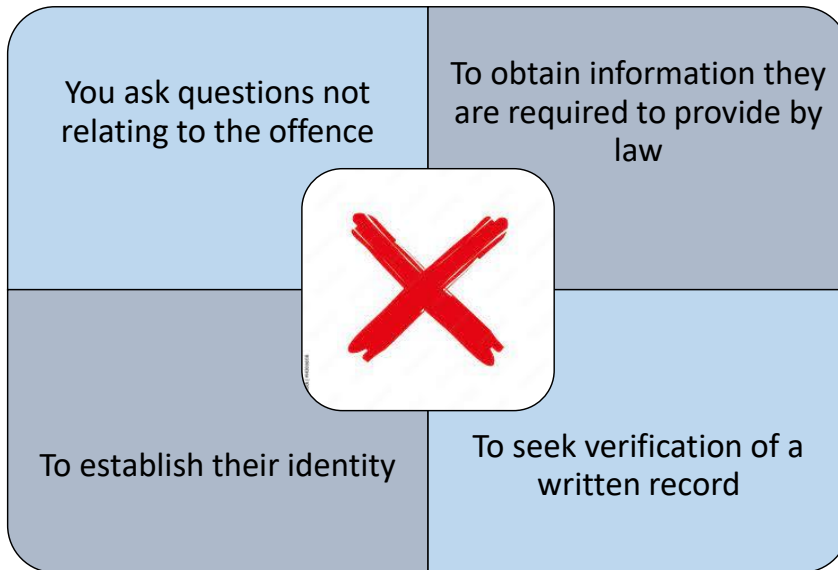


An interview is the questioning of a person regarding their involvement or suspected involvement in a criminal offence or offences which must be carried out under caution



QTS – what is the difference between a cautioned reply and an interview?

When is a caution NOT required?



QTS – when do you not need to caution someone?

e.g. to establish identity, even though the person you are speaking to could be the person you suspect may have committed the crime, you would only caution when you want to ask something which may be included as evidence.

To establish course of events when the person you are speaking to is not the offender

e.g. who was the driver of a vehicle involved in a collision

Stop search to be covered later in your training

Such as something in your pocket book that you are asking the person to sign as a true record

Different procedures to be followed under POT than for other stop/ searches

Caution



What if the person cautioned does not understand the caution?



Individual Activity 1 – students to write the meaning of the caution in their own words

Caution Simplified

You have the right not to say anything if you do not wish to

If there is something you do not tell me now when I ask you questions & you later decide to tell the court then the court may be less likely to believe you

Anything you do say can be given in evidence, this means that if you do attend court, the court can be told what you have said



Why is it important that the person understands what has been said to them when the caution is given?

To ensure that they make an informed decision about whether they choose to say anything or not.

If they don't understand the caution then they may incriminate themselves when they do not wish to.

How much do you think your average person knows about the law?

The law says that everyone has the right not to say anything that may incriminate them if they do not wish to.

Always ask the person whether they have understood what you have told them when giving the caution. DO NOT assume they have understood as it may cause issues later.

The 'Now' Caution

You do not have to say anything.
But it may harm your defence if you do not mention now
something which you later rely on in court.
Anything you do say may be given in evidence.



PACE Code C

(At the conclusion of the process, when a person is reported or charged with an offence)

The 'now' caution comes at the conclusion of the process when the person is charged with, or informed that he may be prosecuted for an offence.

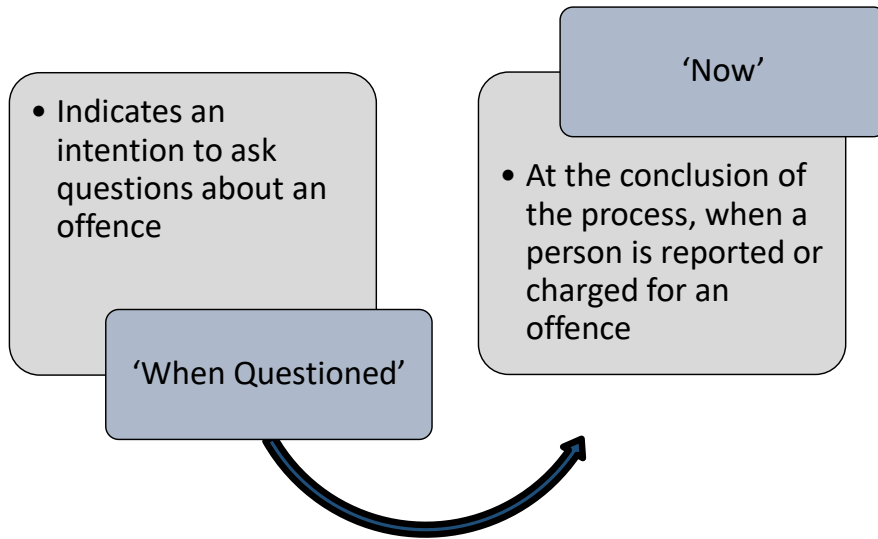
It tells the person what is happening and also means that the officer cannot ask any further questions about the offence, except under exceptional circumstances.

The only exceptions to that rule are:

(i) "...unless they are necessary for the purpose of preventing or minimising harm or loss to some other person or to the public or for clearing up an ambiguity in a previous answer or statement or where it is in the interests of justice that the person should have put to him and have the opportunity to comment on information concerning the offence which has come to light since he was charged or informed he may be prosecuted." (Code C 16.5)

(ii) if, after a detainee has been charged with or informed they may be prosecuted for an offence, an officer wants to tell them about any written statement or interview with another person relating to such an offence, the detainee shall either be handed a true copy of the written statement or interview or the content of the interview record brought to their attention. Nothing shall be done to invite any reply or comment except to caution the detainee and remind the detainee of their right to legal advice. (Code C 16.4)

Cautions – The Difference



QTS – what is the difference between the 'when questioned' caution and the 'now' caution?

Unsolicited Comments

Two types:-

Relevant

Significant



QTS – what do you think an unsolicited comment is?

An arrested person must not be interviewed about the relevant offence, except at a police station.

So what should an officer do when the suspect who has been arrested suddenly says something relevant to the offence, or to another offence?

The comments cannot be ignored as they may contain information that could be used in evidence. These comments are referred to as 'unsolicited comments' and there are two types: Relevant & significant

Relevant Comment

A relevant comment includes anything which might be relevant to the offence
Example, "That other person you arrested, it was them that did it, just ask that witness, you'll see!"



QTS – what is a relevant comment?

Significant Statement

Includes anything which could be used in evidence against the suspect.

Significant statements can be made **before or after** caution



QTS – what do you think a significant statement is?

Significant Statement – **before or after** caution

e.g. person returning to vehicle parked on double “I’ve only been here for 5 minutes”

Significant Silence

That is a silence which 'might' give rise to inferences being drawn. E.g. refusal or failure to answer a question satisfactorily

Can only arise after caution



QTS – what do you think a significant silence is?

Significant Silence – **after** caution

A significant statement or silence is one which appears capable of being used in evidence against the suspect, in particular a direct admission of guilt, or a failure or refusal to answer a question or to answer it satisfactorily which may give rise to an inference.

Making a Record

Enter in pocket book as soon as possible



Include time, date, persons present, signed by maker



Suspect given opportunity to read, sign & indicate inaccuracies



QTS – what information should we record in relation to comments and cautions?

Why is it so important to record this information?

Where should this information be recorded?

All unsolicited comments must be recorded in a PNB, noting when the comment was made and signed by the police officer.

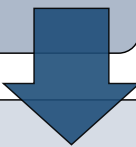
When practicable, the suspect should be given the opportunity to read it and if they agree that it is a true and accurate reading of what was said, they can endorse it with their signature.

If the suspect does not agree with the record, the officer should record the details of any disagreement in the PNB. The suspect should then be given the opportunity to read and sign the disagreement.,

A refusal to sign should also be recorded.

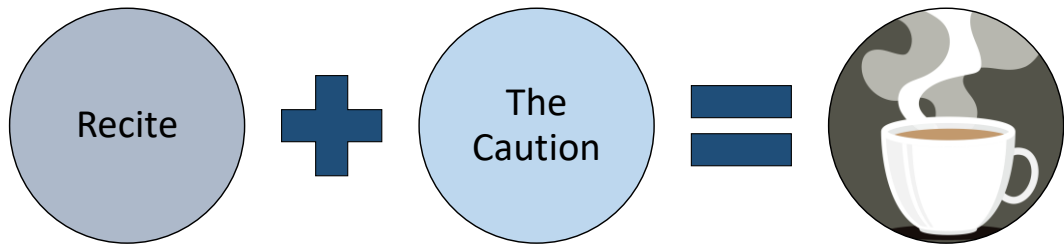
Why do we need to follow these rules?

P.A.C.E



If a caution is required but not given this could result in evidence being deemed inadmissible & valuable evidence being lost





Group Activity 3 – each student to attempt to recite the caution prior to coffee.

Students to participate in the exercise and attempt to recite the caution in full before the coffee break

(encouragement given by other students and team work promoted to help their colleagues complete the caution)