

Notes Meeting Martin Smith KC: 10/06/13

Salient points covered off with Martin Smith

Where rights of lawyer present offered to suspect who wants his own solicitor who is not available.

Consider your position in terms of recovering evidence at not compromising the investigation. In this instance inform the suspect that as his lawyer cannot attend within a reasonable time, arrange for suspect to be arrested and booked in local police station where solicitor from nominated list can be offered or the duty solicitor scheme.

The arrest can be justified on the basis that there are reasonable grounds to suspect an offence has been committed. Inviting the suspect to the police station to obtain legal representation is not effective as they are at liberty to leave whenever they wish. Asking for their own solicitor establishes an element of control over the process. The investigator needs to remain in control without jeopardising the suspect's legal rights.

Interview

Consider maximising opportunity to capture evidence at earliest stage, ie where there is a significant comment; hold a preliminary interview, cover off significant comment and a second more in depth interview at a later stage when more evidence is gathered. Think of the Golden Hour of capturing the evidence

Significant Comment

Auditors are to be encouraged to record any significant comment made in the course of the audit either unsolicited or in response to a reasonable question to complete the audit such as “ *I have checked the money in the safe and there appears to be a shortage, is there any money stored elsewhere that needs to be checked*” . In the case of the unsolicited comment, the auditor should record this ie I know you will find a shortage, I borrowed the money. However any further question such as “why” would constitute an interview.

In such cases, the auditor should inform the suspect that their comment will be recorded but any further questions concerning the comment will be conducted under caution where the suspect has been accorded their rights.

In cases where the suspect wishes to off load, the auditor again should record the initial comment, advise the suspect as above and if they keep off loading, note in the record, that the suspect was advised that he/she would have the opportunity to be interviewed by a security manager under caution at a later stage. THEN CONTINUE TO RECORD THE COMMENT. Again any questions even for clarification from the auditor would constitute an interview and could/would render the evidence inadmissible.

Record of Conversation

At the current time Auditors record any significant comment on a *Record of Conversation* form. This encourages an interview to take place which will have an adverse impact on the evidence. This should be changed immediately to “*Record of any significant comment*”

Signing a declaration

Rather than the form printed *This is an accurate account of what was said* or words to that effect] The suspect should be invited to record this declaration and sign. Should the suspect not wish to write this, then the auditor must write it. Deal with refusal to sign in the usual way.

One on One interviewing

One on one interviewing should be considered on a case by case basis. There is no reason why in a straight forward investigation where there have been admissions and risk is considered low, that a one on one tape recorded interview should not be considered. This will free up resources and should be encouraged wherever possible. Clearly in more complex cases, where there is a need to pre prepare and note salient answers, then the interview must be conducted by two persons. Experienced

Do we need to use another Secops member of staff?

Where feasible there is no reason why we can't use other members of staff to assist

Interview notes

In the majority of cases at initial submission, the MG15 [Notes of interview] needs to be a brief synopsis of the interview and any significant comment. It is therefore good practice to write down a note of the interview and generally what was said on completion and not rely on listening to the tapes again at a later stage. Such as *throughout the interview the subject stated that he had borrowed the money to made up a shortfall and when challenged over this accepted that it was wrong to take the money.* No comment interviews should not be transcribed. Where prosecuting lawyers request a transcript it will be completed by the transcribers, checked and sent by the Security Manager

Searching

In all cases a search of the premises should be considered and provided it is in the spirit of Section 18 and 32 of PACE [Reasonable Grounds to suspect there is evidence on the premises that relates to the offence [Need to check wording]

Searches are conducted by consent, however where the subject refuses to consent, the same principle applies as [Confirm] with delays over legal advice. There are reasonable grounds to suspect that evidence that will dispel or confirm the suspect's involvement in

the offence will be found, then contact police with a view to arrest the suspect. A search can then be conducted by police following arrest [Section 32 PACE] of subsequently following the suspect being detained at the station [Section 18 PACE]

A note should be made in the progress of enquiry as to why a search was not deemed necessary, and line manager informed

Continuity of Evidence

Good communication with the audit team is crucial to ensure evidential resilience in relation to the continuity of exhibits. Where the auditor recovers original documents following the audit, ideally these must be retained until arrangements are made with the Security Manager to take the auditors exhibiting statement. Every effort must be made to ensure that the person finding is the person exhibiting and **original** documents that will form the evidential basis of the case are retained until collection. The continuity will be stronger if the documents seized are secured and handed over against a signature.

In circumstances where the only viable way is to send the documents through the post they should be sent by the Auditor to the named Security Manager RD. In such circumstances, the Auditor must ensure that a complete copy of all the documents is made prior to despatch.

Copy documents

There is no reason why documents cannot be scanned to the Investigator prior to preparing an interview, such as any significant comment in circumstances where it is evidentially beneficial to get the suspects account on tape at the earliest opportunity.

All exhibits should be signed and dated on the label, including future handling. Post Office exhibits do not need to be inserted into a sealed tamper proof bag. Although should be used in circumstances where the suspect hands over a **quantity** of receipts or other potentially useful documents. These should be sealed in the presence of the suspect in a tamper proof bag signed and dated by the recipient. When subsequently examined by the security manager, any documents used can be exhibited and the remainder form part of the unused material. The use of a tamper proof bag will limit the likelihood of the suspect alleging that documents were handed over that supported his case and where not recorded or exhibited anywhere.

Statement taking

Rather than a hand written Section 9 statement, there is no reason why a draft statement cannot be prepared in note form. The statement can then be typed up subsequently, with any changes, clarification or ambiguity amended. Provided the original notes are retained [A ruled bound black and red where pages cannot be torn could be used per investigation, and form part of the disclosure bundle] On typing up the statement it can be sent to the recipient for checking and amending. Once agreed, the statement should be signed and sent back to the investigator

Statement taking over the telephone

Where this can be done to save time and resources it must be encouraged. Statement taking over the telephone is an accepted and modern practice. In the case of statements where exhibits are produced it is vital that a copy of the exhibit referred to in the statement is scanned and email

London Investigators; we should be utilising Sam more for copying docs etc

Disclosure

Going forward, case files will include a schedule of unused non-sensitive material and unused sensitive material [Public Interest Immunity, Legal Privilege and documents that may highlight the methods used for investigation] The Appendix "C" in the case file will be retained by the Security Manager as oppose to submitted with the file. Where solicitors may wish to examine any unused material it should be requested and sent by the Security Manager

Progress of the Investigation

This document needs to record all significant steps in the investigation including any lengthy delays in concluding the enquiry. The progress of investigation document will form part of the unused material although should be produced with the file in circumstances either pre or post submission where there has been a significant.

Supervision of the Investigation