



Royal Mail Internal Information  
Criminal Investigation Team

# Appendix 7 to 7.4 Dealing with Defence Solicitors & Complaints by Suspects

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## Key Accountabilities

Who is accountable?	What do I have to do?	When do I have to do this?	How do I do this?
All members of Royal Mail Security	Ensure you comply with these procedures	Ongoing	As detailed within these procedures

## Dealing with Defence Solicitors & Complaints by Suspects

### 1. Pre-Interview Disclosure to Defence Solicitors

- 1.1 There is no requirement to disclose to the defence solicitor all the evidence against their client before an interview commences. It is the decision of the Investigator how much to disclose and when. It is a legitimate tactic and quite acceptable to conduct a staged disclosure. A staged disclosure is where compelling evidence (such as CCTV) is held back from the initial disclosure in order to get the suspect's initial account of events without revealing all the available evidence. This may prove that the suspect is prepared to lie until confronted with compelling evidence.
- 1.2 Investigators should note that if they decide to carry out a staged disclosure, the solicitor may advise their client, during the interview, not to answer any questions about matters which have not been disclosed to them, until they have had the opportunity to discuss the evidence with their client. Should a solicitor ask if they have received full disclosure the Investigator should inform them that they have had appropriate disclosure and they would now like to interview their client.
- 1.3 The disclosure strategy should be part of the interview planning process.

### 2. Private Consultations When It Is Suspected That the Suspect Has Evidence on Them

- 2.1 Generally a suspect is allowed to consult a solicitor in private at any time. If a suspect wants to consult privately with a solicitor and it is thought that they have on them evidence of an offence, then it is quite likely that the suspect will try to distance themselves from the evidence by attempting to dispose of it. Accordingly where it is thought that the suspect has evidence on them, the suspect should be asked to consent to a search of their person before allowing a private consultation. If they refuse then the consultation can take place as long as the Investigators remain in line of sight of the suspect. If not then the question of arrest will arise. Further details on arrest can be found in the Criminal Investigation P&S 7.1 Suspect Approach & Arrest.

### 3. Dealing with a Pre-prepared Statement

- 3.1 If during the course of an investigation an Investigator is handed a pre-prepared statement it should be read out on tape at the commencement of the interview or subsequently when it is handed to the Investigator. The preferred order to read out the statement is suspect, solicitor then an Investigator. The statement should be signed and dated by the suspect.
- 3.2 The suspect should be asked if the statement is a true account and if they are going to rely on it. The statement should be identified as an item of evidence. Investigators should then consider how the pre-prepared statement affects their interview and whether they need to suspend the interview to consider "topics" for discussion. The interview should then continue

treating the pre-prepared statement as the suspect's "first account".

## **4. Representations by Solicitors**

**4.1** Solicitors may make "representations" on behalf of their clients. Representations can be made orally or in writing. The aim of the representation is to influence an Investigator to think or act differently or persuade others to do so. They can be made about such things as;

- 4.1.1** The circumstances surrounding the arrest of a suspect.
- 4.1.2** The strength of evidence against the suspect.
- 4.1.3** The failure to make a full disclosure to the solicitor.
- 4.1.4** The suspect's welfare or fitness to be interviewed.
- 4.1.5** The need to question or continue to question the suspect.
- 4.1.6** The suitability of an appropriate adult and or interpreter.

**4.2** Should a representation be made by a solicitor then it, and the response to it, must be recorded either on tape, or in the notes of interview, or in a notebook. (If in custody a record should be made in the custody record). Investigators will be better able to deal with representations effectively if they have a good understanding of the PACE Codes of Practice. Representations can be confused with complaints, (complaints generally are in respect of mistreatment of the suspect whereas representations are made in respect of such things as the strength of evidence, or obtaining preferable treatment for the suspect or advancing the suspect's defence). If there is confusion the Investigator should establish with the solicitor whether they are making a representation or a complaint. Complaints should be dealt with separately using the complaints procedures which are detailed below in Section 6 below. If still in doubt investigators should speak to the Criminal Law Team (CLT).

## **5. Requiring Solicitors to Leave an Interview**

**5.1** Solicitors may only be required to leave an interview if their conduct is such that the interviewer is unable to properly put questions to the suspect. However, it must be borne in mind that solicitor's only role is to protect and advance the legal rights of their client and as such they may;

- 5.1.1** Intervene in order to seek clarification.
- 5.1.2** Challenge an improper question.
- 5.1.3** Challenge the manner in which a question was put.
- 5.1.4** Advise their client not to reply to particular questions.
- 5.1.5** Give their client further legal advice.

Examples of unacceptable conduct by solicitors include answering questions on their client's behalf or providing written replies for their client to quote. If an Investigator feels that a solicitor's conduct is unacceptable they must suspend the interview and seek advice from a Senior Investigation Manager (SIM) or the CLT. Should a particular solicitor be excluded from an interview then the suspect should be offered legal advice from an alternative solicitor.

- 5.2 If in police custody and it is thought that a solicitor's behaviour is unacceptable the Investigator should advise the custody officer who will take steps for a senior police officer to be consulted.

## 6. Complaints by Suspects

- 6.1 If in the course of an interview a complaint is made by or on behalf of the interviewee, concerning the provisions of the PACE Codes of Practice then the complaint should be recorded in the interview record and reported to a SIM, or if at a police station the custody officer, as soon as practicable. If the former applies the Investigator should telephone the SIM in the interview room with the tape machine running and if available the speaker phone on. If at a police station again the tape machine should be left running as the custody officer will no doubt want to enter the interview room to speak with the suspect. Continuation of the interview is at the Investigators discretion pending any action that the SIM or the police consider appropriate.
- 6.2 If the complaint is about a matter not connected with the PACE Codes of Practice, the decision to continue is at the Investigator's discretion. If the Investigator decides to continue with the interview, they shall ensure that the complaint is recorded on the interview record and tell the suspect that the complaint will be brought to the attention of a SIM (or if at a police station the custody officer), at the conclusion of the interview. When the interview is concluded the Investigator must inform a SIM (or if appropriate the custody officer) about the existence and nature of the complaint as soon as practicable. If the Investigator decides to report the complaint immediately they should act in accordance with the paragraph above.
- 6.3 If at any time the suspect alleges assault or the use of unreasonable force, or it comes to notice that a suspect has been mistreated, then a SIM (not connected to the enquiry) must be informed as soon as practicable. Additionally, arrangements must be made for a health care professional to examine the suspect. (If at a police station the matter must also be reported to the custody officer).
- 6.4 If in accordance with the provision of this section a complaint has been brought to the attention of a custody officer then the Investigator must also ensure that they inform a SIM as soon as practicable.

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## Glossary

Abbreviation or Term	Meaning
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<b>CLT</b>	Criminal Law Team
<b>PACE</b>	Police & Criminal Evidence Act 1984
<b>SIM</b>	Senior Investigation Manager

### Document Summary

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