

# FIRE SERVICES EXAMINATIONS BOARD

## STUDY NOTE

EXAMINATION

STATION OFFICERS' EXAMINATION

PAPER

FIRE SAFETY, EDUCATION AND ENFORCEMENT

SUBJECT

FIRE SAFETY LEGISLATION

ITEM

CAUTIONING SUSPECTS

STUDY NOTE No.

3201

### *INTRODUCTION TO THE STUDY NOTE*

*This study note has been prepared as the basis of study in connection with the qualifying examinations for promotion.*

*Candidates will be expected to demonstrate knowledge of the information contained in the study note and understand how it should be applied:*

*The 'References' made at the end of the Study Note are included for information only and candidates will not be expected to study these as part of the bibliography.*

## CAUTIONING SUSPECTS

### 1. Introduction

From time to time Fire Officers may be involved in the investigation of breaches of fire regulations.

As part of the investigation, the officer may have to interview witnesses and ask questions to establish the facts or the circumstances of the event or situation. This in turn may lead to the Officer having to prepare and complete written reports and statements as evidence for a court of law.

Although skill in undertaking these activities can only be achieved by practice, there are a number of procedural issues relating to the collation of evidence that officers should have knowledge and understanding of.

Two of these procedural issues form the basis of this study note, they are:

- (a) The questioning of suspects; and
- (b) Interviewing suspects.

Although the procedures may vary slightly across the United Kingdom, their aim is the same, that is, the fair and consistent treatment of persons suspected of committing an offence.

### 2. The Questioning of Suspects

As indicated above, Fire Officers may have to interview people as part of their day to day duties, for example when they are investigating the cause of a fire or investigating the circumstances of breaches of fire regulations found during a fire safety inspection.

The Officer may not have discovered the breach of the regulations but may have been nominated to follow up an event, inspection or incident that has been reported by an officer with less experience or seniority.

As part of the process of the investigation, if during an interview it is suspected that the person being interviewed has committed an offence, certain procedures need to be followed relating to the questioning of that person, if at a later date the results of the questioning are to be admissible in a court of law.

These procedures are required by virtue of codes of practice or guidance on best practice in the investigation and reporting of offences, the relevant codes are:

- (a) In England and Wales - "Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers".
- (b) In Scotland - "Reports to the Procurator Fiscal - A Guide for Non-Police Reporting Agencies".

Although the code in (a) above refers to police officers, "The Police and Criminal Evidence Act" applicable in England and Wales states that persons other than police officers who are charged with the duty of investigating offences or charging offenders shall in the discharge of that duty have regard to any relevant provisions of such a code".

Fire Officers, who are charged with the duty to investigate possible offences under legislation, should have due regard to the provisions of the Code or the Guide.

### 3. The Caution

- (a) When a caution must be given.

A person on whom there are grounds to suspect of an offence must be cautioned before any questions about it (or further questions if it is answers to previous questions which provide the grounds for suspicion) are put to them regarding their involvement or suspected involvement in the offence if their answers or their silence (ie failure or refusal to answer a question or to answer satisfactorily) may be given in evidence to a court in a prosecution.

The suspect need not be cautioned if questions are put for other purposes, for example, solely to establish his or her identity or to obtain information in accordance with any relevant statutory requirement.

In situations where the suspect's guilt is not clear it is permissible to ask questions prior to caution to find out relevant information. It may be that an innocent explanation is forthcoming which requires to be checked out; on the other hand if incriminating admissions are made it will be necessary to caution the accused before proceeding further with any questioning.

- (b) In England and Wales the caution shall be in the following terms:

**"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".**

- (c) In Scotland the caution shall be in the following terms:

**"You are going to be asked questions about (brief description of the alleged offence) You are not bound to answer but, if you do, your answer will be noted and may be used in evidence. Do you understand?"**  
(await reply)

It is recommended that the caution is read from a card so that the officer does not take the risk of misrepresentation.

When there is a break in questioning under caution the interviewing officer must ensure that the person being questioned is aware that they remain under caution. If there is any doubt the caution shall be given again in full when the interview resumes.

If it appears that a person does not understand what the caution means, the officer who has given it should go on to explain it in his own words.

**Note: It is not necessary to caution witnesses.**

#### 4. Implications for Fire Officers

Some concern has been registered about the possible conflict between the right to silence and the fire authorities ability to bring prosecutions, for example where a person fails to provide appropriate assistance to an officer making enquiries in the pursuance of his or her duties.

The Code of Practice and Guide referred to in 2(a) and 2(b) above provide that a caution need not be given if questions are put solely to establish identity or ownership or to obtain information in accordance with any statutory requirement.

However, it may be appropriate to give a caution in cases where a person refuses to provide information requested by an officer.

It is nevertheless thought that difficulties are unlikely to arise in most cases if the legal responsibility of the person to assist the officer in his or her enquiries has been properly drawn to their attention during preliminary enquiries to establish the facts.

A caution should be given when their answers to questions give reason to suspect the commission of an offence, including the offence of not providing the officer with the required assistance during his or her enquiries'.

#### 5. Interviewing Suspects

Interviewing a suspect regarding their involvement or suspected involvement in a criminal offence(s) should be carried out under caution.

An Interview record should be accurate, legible, clear in meaning and to the point.

##### (a) Procedural Issues

The following procedural issues should be addressed regarding an interview:

- (i) An accurate record must be made of each interview with a person suspected of an offence.

- (ii) The Identification of the suspect should be clear, ie full name; full address; age; date of birth; occupation and place of employment.
- (iii) That a caution was given.
- (iv) The record must state the place of the interview, the time it begins and ends, the time the record is made (if different), any breaks in the interview and the names of all those present; and must be made on the forms provided for this purpose or in the officers' pocket book.
- (v) If an interview record is not made during the course of the interview it must be made as soon as practicable after its completion.
- (vi) Written interview records must be timed and signed by the maker.
- (vii) Unless it is impracticable the person interviewed shall be given the opportunity to read the interview record and to sign it as correct or to indicate where they consider it inaccurate.
- (viii) If the persons solicitor is present during the interview, he or she shall also be given an opportunity to read and sign the interview record (or any written statement).
- (ix) Any refusal by a person to sign an interview record when asked to do so must be recorded.

(b) Interview Details

The interview record must be clear in respect of the offence occurrence:

- (i) The date, day and time of the offence;
- (ii) The exact place; eg the location within the premises;
- (iii) The exact words used by the suspect in reply to a question either in mitigation or explanation.

(c) Tape recording of interviews

The tape recording of interviews is subject to a comprehensive code of practice, which is outside the scope of this study note.

## References

Dear Chief Fire Officer Letter 2/1996

England and Wales - Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers 1995

Scotland - Reports to the Procurator Fiscal - A Guide for Non-Police Reporting Agencies