

****See update below on 20/04/2020****

Station: HQ

Officer: Custody Commander

Subject: GOLD Policy decision

Date: 08/04/20



**Op Talla GOLD - Proposed Policy decision
Video and telephone contact between detainees in EP custody and legal representatives**

In a letter dated 02/04/20 to Chief Constables and Chief Crown Prosecutors, the respective national leads for these agencies stated:

- **“In the current circumstances relating to the Covid-19 challenge, the parties to this protocol have agreed that the video-link facilities available under Code C of PACE to police officers and interpreters should also be available to defence representatives”.**
(Appendix A)

Supporting guidance setting out a revised interview protocol to remain in place for the duration of the COVID health crisis states:

- Point 9: Legal advice for suspects should take place whenever possible over the telephone (for legal advice) and by video link for interviews with suspects. This may depend on the police facilities and devices available. Any existing facilities for links used for interpreters or for remote interviewing by police officers should be considered for use by police officers and defence representatives.
- The interview protocol is co-signed by the Law Society, Criminal Law Solicitors Association, London Criminal Court Solicitors Association, CPS and NPCC.
(Appendix B)

Essex Police is urgently developing a technical solution to facilitate the remote participation of solicitors in suspect interviews. It is anticipated that Essex Police will be able to go-live with this technology across all custody suites by close of play, 10th April 2020.

- “Telephone consultations with defence representatives should also be used whenever possible (and that may include the provision of prepared statements), but this protocol does not include any agreement as to the use of telephone for a formal suspect interview because such links are not available under PACE for police officers and interpreters.”

Essex Police offers solicitors the facility to advise their clients over the telephone prior to interview. The number of lines into each suite is limited but this process continues to work well.

Until the tablet solution is available and afford the ability to provide video based legal advice, Essex Police will follow NPCC and CPS advice NOT to permit telephone only based legal advice in PACE interviews.

Where a detainee requests legal advice in interview solicitors will be encouraged to attend the police station and provided with appropriate PPE in line with current HSE and PHE advice.

If a nominated or duty solicitor refuses to attend the police station in person an escalating and risk-based approach to resolving that situation will be taken by the custody sergeant as follows:

- Engage with nominated solicitor and request attendance at the suite, offering PPE in line with HSE national guidelines
- If attendance is refused, Inspector to advise DP and ask if they want us to contact Duty Solicitor
- If yes, contact Duty Solicitor and request their attendance, offering PPE in line with HSE national guidelines
- If attendance is refused, Inspector to advise DP and ask if they want us to contact a second Duty Solicitor
- If yes, contact Duty Solicitor and request second solicitor attendance, offering PPE in line with HSE national guidelines
- If attendance is refused, risk assess the severity of the offence in the context of the threat/harm/risk factors using the NDM
- If an interview is necessary because of the severity of the offence, risk to the victim or wider public safety, consider Superintendents authority to interview without solicitor present.
- Notify Duty Command and PACE Supt.
- If an interview is NOT necessary and the offence is not so serious that bail or RUI might otherwise be considered, then choose either of these or other disposal options available to you that do not necessitate in interview at this time.

APPENDIX A



02.04.20 Joint CPS
and NPCC letter - Cus

APPENDIX B



Joint Interim Custody
Interview Protocol.pdf

20th April 2020

Essex Police have taken delivery of tablets for use in suspect interviews. These devices have been operational since Friday 10th April, allowing solicitors to be virtually present during interview. As a result, re worded guidance needs to be published to incorporate this technology.

- Engage with nominated solicitor and request attendance at the suite, offering PPE in line with HSE national guidelines
- If attendance is refused, detainee offered phone consultation with their solicitor. If after phone consultation solicitor states they will not attend and the detainee is happy to proceed in the absence of their solicitor the duty Inspector will provide the authority for the

interview to take place in the absence of the solicitor being present in accordance with PACE, Code C, 6.6.

- If after phone consultation the solicitor agrees to represent the DP in interview by way of live link, and the DP agrees. The interview should be conducted as normal.
- If the detainee requests a solicitor present the Inspector will advise DP and ask if they want us to contact Duty Solicitor
- If yes, contact Duty Solicitor and request their attendance, offering PPE in line with HSE national guidelines
- If attendance is refused, Inspector to advise DP and ask if they want us to contact a second Duty Solicitor
- If yes, contact a second Duty Solicitor and request attendance, offering PPE in line with HSE national guidelines. If attendance is refused, the interview may be started or continued without further delay provided an officer of Inspector rank or above has agreed to the interview proceeding. (PACE, Code C, 6.6). However, PACE doesn't mention live link for solicitors to be virtually present during interview. It has been agreed by ACC Prophet the duty PACE Supt should make the final decision about interviewing a DP or not.
- If an interview is NOT necessary and the offence is not so serious that bail or RUI might otherwise be considered, then choose either of these or other disposal options available to you that do not necessitate in interview at this time.

Deputy Custody Commander