

Interview guidance for political finance investigations

You should always plan interviews. You should be clear as to the purpose of the interview and what evidence you intend to obtain, so that it stays focused. Unlike most other evidence gathering, interviews involve interaction, and it is easy to get distracted and stray from the purpose.

Planning is about more than the evidence to be obtained. It includes where best to hold the interview, taking into account any special circumstances or needs of the person being interviewed, as well as the importance of privacy and security. Consider whether the location might be uncomfortably hot or cold – it is important that the interviewer and the person being interviewed will be comfortable. As a minimum, drinking water should be provided at the interview.

Planning also involves providing the person being interviewed with the information they need before the interview, including the time, date, and location, any evidence to be shared with them, and whether they may bring someone with them. Most legal frameworks allow a person being interviewed to be accompanied by a legal advisor if they wish, or alternatively a friend to support them. However, that person should not be anyone who is involved in the matter under investigation.

You should conduct the interview professionally and politely. If possible, try to achieve a conversational approach. Be persistent with questions, but not oppressive. Evidence obtained through too much pressure or where the subject is influenced is unlikely to produce reliable evidence and may well be successfully challenged.

Always record interviews. Depending on the content or importance of the evidence obtained, the recording might be used to produce notes or a full transcript. That does not always mean audio or video recording – a note of the interview may be sufficient, particularly where an interview was short and dealt only with one or two specific points. You should share the record of the interview with the subject of the interview to confirm their acceptance that it is accurate.

There is a model for investigative interviewing used by law enforcement agencies around the world, which is recommended as a tool for interviewing, known as the 'PEACE' model, which is an acronym for five stages – the words can vary but are usually Prepare, Engage/Explain, Account, Closure, and Evaluation. The UK College of Policing provides a detailed guide to investigative interviewing and the PEACE model on its website. New Zealand Police also produce very detailed guides for both suspects and witnesses.

It is a good idea to have a document that sets out how interviews will take place and what a person can expect. This can be published and provided to anyone being asked to attend an interview. The UK Electoral Commission includes this as an Appendix to its Enforcement Policy, and is at level 3 XXXX. (But for review purposes, we are including the text of the level 3 text here:

Appendix A Guidance for those invited to voluntary interview

Reason for the interview

A.1. We believe you may have evidence or information which will assist an investigation we are conducting. For this reason we wish to interview you.

A.2. The purpose of the investigation is to establish whether an offence and/or contravention under the Political Parties, Elections and Referendums Act 2000 has occurred, and what action, if any, is appropriate as a result.

A.3. The information you give in the interview may be used as evidence that any person – including you – has committed an offence under PPERA.

A.4. You are invited to attend the interview voluntarily and you are not compelled to attend. We do however have the power to require individuals to attend an interview in certain circumstances.

Regulatory caution

A.5. This interview forms part of an investigation into a possible offence and/or contravention under PPERA. This may result in a sanction being imposed, such as a monetary penalty. As the information you provide in the interview may form part of the evidence on which that sanction is imposed, the interview will be carried out under a regulatory caution.

A.6. The caution will warn you that 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 proceedings. Anything you do say may be given in evidence.

Prior to the interview

A.7. At least 14 days before the interview, we will send you and your legal representative (if you have appointed one) details of the issues we are investigating. We will also confirm the date, time and venue for the interview and let you know the names and job titles of those who will be conducting the interview. At least two members of staff of the Party and Election Finance Directorate will conduct the interview.

A.8. We will also disclose any appropriate documents to you that we may refer to in the interview. We do not expect you to bring any documents to the interview that you have not already provided to us prior to the interview. However, if you feel you have documents that would assist us with our enquiries, please provide us with copies at least seven working days before the interview.

A.9. You may bring another person with you to the interview, such as a legal representative. However, we may refuse to allow a particular person to accompany the individual if the presence of that person is likely to compromise the integrity of the investigation. Please let us know at least seven days prior to the interview if you intend to be accompanied, and supply the name and contact details of that person.

A.10. If you or the person accompanying you has any special requirements for the interview, such as access requirements, please let us know as soon as possible in advance.

A.11. If we require you to attend for interview at a venue some distance from your home, we will meet reasonable expenses incurred in attending the interview.

At the interview

A.12. Interviews are conducted in confidence as part of the investigation process. We ask that this confidence is respected by you and your independent person. However, you may disclose details to your appointed legal representative if they were unable to attend the interview.

A.13. We will normally audio-record the interview so that we have a complete and accurate account of your answers.

A.14. At the start of the interview, we will set out how the interview will be conducted and give you an opportunity to ask any questions about the procedure to be followed.

A.15. The length of the interview will depend on the questions we have and the answers you give. If at any point during the interview you, your legal representative or other person accompanying you wish to take a break, please let the interviewers know and this can be arranged. We may also call a break during the interview. A short break will normally be offered after each hour, unless the interview is at that point very close to completion.

A.16. We will ask you questions to enable us to gain a full and comprehensive understanding of the circumstances under investigation. While we encourage you to answer our questions, whether or not you choose to do so is a matter for you to decide in light of your own legal advice. If you choose not to answer our questions, that may mean we are not able to fully understand your account of the circumstances under investigation. You should be aware that adverse inference can be drawn if you fail to mention something during the interview which you later rely on in proceedings. It may also impact on the timely progress of the investigation.

A.17. Your legal representative or other person accompanying you may not answer questions on your behalf. Please let us know if you wish to speak to your legal representative in private during the interview.

A.18. At the end of the interview, you will be given an opportunity to provide any evidence or information that you have not already provided and which you wish to place on record. We will also explain what happens next.

After the interview

A.19. We will usually send you a copy of the recording or a transcript after the interview and we may also ask you for further information within a reasonable period of time. If, upon review of the recording or transcript, you want to clarify any of the statements made during the interview, you can provide this to us in writing.

A.20. If at any time after the interview you think of anything that may be relevant to our investigation, please contact us.