


TFF Conference 2017 

Interviewing Fraudsters




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- Part two – To follow PACE or not? That is the question...
- Part three – Managed Conversations.
- Round up – The way forward.

All of these sessions are taken from training events run by ITS
To find out more, just ask!

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Managing a conversation



Investigative Interviewing :

- Consider the objectives of the interview and structure a plan to reach them.
- Set the scene with the interviewee and create the right environment.
- Understand the different question styles and how and when to introduce evidence.
- Recognise when and how to close an interview.
- Understand how to assess the performance of the interviewer and the value of the information gathered.

P.E.A.C.E.



Prepare


Engage and Explain

Account

Closure

Evaluation

Planning the Interview



Points to Prove


Explanations and Excuses

Already Established


Cover During the Interview

Exhibits to Show

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Planning your Interview...





Possible offence :	
Points to prove :	Possible defences :
Facts already established :	Matters to cover :

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	<h2 data-bbox="347 302 794 369">Application Fraud</h2> 
	<p data-bbox="359 414 574 459">Section 171 :</p> <p data-bbox="359 481 1125 526"><i>False statements and withholding information</i></p> <p data-bbox="359 537 1260 660">(1) <i>A person commits an offence if, in connection with the exercise by a local housing authority of their functions under this Part :</i></p> <ul data-bbox="422 683 1260 918" style="list-style-type: none"><li data-bbox="422 683 1260 772">(a) <i>he knowingly or recklessly makes a statement which is false in a material particular, or</i><li data-bbox="422 784 1260 918">(b) <i>he knowingly withholds information which the authority have reasonably required him to give in connection with the exercise of those functions.</i>
<p data-bbox="646 996 949 1019" style="text-align: center;">© ITS Training (UK) Ltd 2001 - 2017</p> <p data-bbox="1252 996 1316 1019" style="text-align: right;">7 </p>	

	<h2 data-bbox="347 1276 794 1344">Application Fraud</h2> 
	<p data-bbox="327 1388 606 1433">Points to Prove :</p> <p data-bbox="327 1444 1300 1601"><i>The suspect ('S') makes a statement to a 'housing authority'. That statement is in connection with a housing application (for anyone).</i></p> <p data-bbox="327 1612 686 1657"><i>The statement is false.</i></p> <p data-bbox="327 1668 1284 1758"><i>The falsehood would alter S's entitlement to social housing in some way.</i></p> <p data-bbox="327 1769 1252 1859"><i>S knows it is false or doesn't take reasonable care to make sure it's true.</i></p>
<p data-bbox="646 1971 949 1993" style="text-align: center;">© ITS Training (UK) Ltd 2001 - 2017</p> <p data-bbox="1252 1971 1316 1993" style="text-align: right;">8 </p>	

Homelessness Fraud



Section 214 (1) – Similar offences for Homelessness

PLUS

If a change occurs, before the final Homelessness determination is made, there is a duty to report it...

BUT

You must have told them about the duty.

PoSHFA Offences



A tenant of a dwelling-house let under [a secure / an assured]¹ tenancy commits an offence if :

- (a) [dishonestly and]² in breach of an express or implied term of the tenancy, the tenant sublets or parts with possession of :
 - (i) the whole of the dwelling-house ; or
 - (ii) part of the dwelling-house without the landlord's written consent ;
- (b) the tenant ceases to occupy the dwelling-house as the tenant's only or principal home ; and
- [(c) the tenant knows that the conduct described in paragraph (a) is a breach of a term of the tenancy.]³

¹as applicable ~ ²either way offences only ~ ³summary offences only



PoSHFA Offences



- They're the tenant of a secure or assured social tenancy.
- They stop using the property as their only or main home.
- They sub-let or part with possession of all or part of the property.
- There is a tenancy term prohibiting sub-letting &c..
...and either...
- They know about the tenancy term *or*
- their behaviour is dishonest.



Dishonesty







• R v Ghosh

Ghosh was a surgeon, who was convicted of four offences of wrongfully claiming fees. The judge told the jury to use their common sense to determine whether his conduct had been dishonest or not. Ghosh argued that the judge should have instructed the jury that dishonesty was about the accused's state of mind.

The court agreed that "...a jury must first of all decide whether according to the ordinary standards of reasonable and honest people what was done was dishonest. ... If it was dishonest ... then the jury must consider whether the defendant himself must have realised that what he was doing was by those standards dishonest."



	<h2 style="text-align: left;">The Ghosh test</h2> 
	<ul style="list-style-type: none"> • Was the act one that an ordinary decent person would consider to be dishonest? • Must the accused have realised that what he was doing was, by those standards, dishonest? <p><i>Following the recent decision by the Supreme Court, the decision in Ghosh is deemed NOT to include the second limb ; provided that the accused is aware of their actions (for example that they knew they had given an incorrect answer), it is up to a jury (or magistrate(s)) to decide if an ordinary person would consider the behaviour to be dishonest.</i></p>
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	<h2 style="text-align: left;">Case Law</h2> 
	<p>So just what is dishonest behaviour then?</p> <ul style="list-style-type: none"> • They must have the dishonest mindset when the act or omission happens. • (Any omission continues until they tell us the true facts.) • It's not about them thinking they're dishonest, it's that they think others would think they were. • You don't have to prove they knew, just that they 'must have known'. • Dishonest & wrong have similar meanings (DWP V Deborah Courts).
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A Good Interview...



If you've planned :

- You will be confident in your interview ;
- You will be efficient, covering only the topics you need to ;
- You can use *Conversation Management* properly ;
- Your interview will be easier to understand ;
- The interview will be quicker ; and
- Any summary or transcription will be shorter and easier to write.

ANY QUESTIONS?



Interviewing Suspects



Pause a moment and think :

- *Do you think an offence has been committed by someone?*
- *Do you think the person you wish to speak to may be involved in some way?*
- *Do you intend to ask them questions and want to use their answers in court?*

STOP and caution them before asking any questions!

Section 67(9) of PACE makes it clear that the rules in Code C apply to you!

The Caution



In England and Wales :

You do not have to say anything, but it may harm your defence if you do not mention, when questioned, something that you later rely on in court. Anything you do say may be given in evidence.

The Rules :

If it appears that a person does not understand the caution, the officer should go on to explain it in his or her own words.

How do you know? :

Ask them to tell you what the caution means!

When to Caution



R v Miller [1998] Crim LR 209


- The court held that asking a person the single question, 'Are these ecstasy tablets?' criminally implicated the person (because it would not be necessary to ask such a question if there were no suspicion that the tablets were a controlled substance) and therefore the conversation was an interview that required a caution.

Rights




- You are not under arrest or detained here ; you may leave at any time during the interview. If the officer is conducting the interview in your home, he will leave if you ask him to.
- You may seek legal advice.
- You may have a lawyer with you if you wish.
- If you need time to seek legal advice or to arrange for a lawyer to come with you, we will suspend this interview and rearrange it to a later date.
- If you need an interpreter we will arrange for one to be present. If necessary we will suspend this interview and rearrange it to a later date.
- A copy of the Code of Practice is available if you wish to consult it.

You must also consider whether or not an *Appropriate Adult* is needed.



ANY QUESTIONS?

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Planning Rapport

- What is the offence that you are investigating?
- What are the 'points to prove'?
- What evidence (not intelligence) do you already have?
- What might they say in their defence?
- What, then, do you need to cover?
- **What do you know about your interviewee?**

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What is *rapport*?



- Rapport is the key to all effective communication.
- Being in rapport with another person allows you to get much closer to understanding them, and them to get much closer to understanding you.
- Rapport is a state in which the subject will *unconditionally accept statements and directions that I give.*

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How to do Rapport



- **Things that work :**
 - Use their language
 - Match their body position
 - Dress like they do


Because...

...people like people who are like themselves!

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Body language theories vs rapport.

- Body language theories talk about open and closed body positions as if :
 - there is one universal body language for the entire population of the world ; and
 - By adopting an open body position, the other person will open up and talk to you.
- Rapport recognises that *everyone is different* and suggests that you *explore the interviewee's model of the world*.

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How You Will Build Rapport.




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Emotive Language

Compare the following :


Dishonest
vs
Wrong

Why did you do it
vs
How come you decided to ...


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It's (Not) All About You

- **Making it less personal**
 - The further away from a situation a person feels, the less connected they are and the more objective.
 - We often talk in 'second position', as it's more comfy.
 - "You make mistakes, everyone does!"
 - Help them to second position.
 - "What do you think I should do if I wanted to sublet my council house?"

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Rapportful Language ...



- Interests
- Key words and phrases
- Predicates

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Interests



- Find out their interests.
- Talk about their interests during the conversation.
- Use words and phrases that reflect their interests in your conversation with them :
 - Football : “My goal for this interview ...”
“Next I’d like to tackle the question of ...”
 - Music : “Just some notes to go through now ...”
 - Cars : “I need to fine tune that answer with you.”

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Key words and phrases



- *Listen to* the words they use. Do they repeat the same words or phrases?
- Can you detect a pattern in *their language*?
- Can you *use their key words and phrases when speaking to them* ?



Predicates




- Predicates are words we use that indicate how we think and code memory and experience. Everyone has a preferred system :
 - Visual : “The way I view it...”
 - Auditory : “It sounds to me...”
 - Kinaesthetic : “I feel as if...”
 - Olfactory : “I’ve got a nose for these things...”
 - Gustatory : “I’ve chewed this over and I think...”
 - Auditory digital : “My reasoning is...”



Account, Clarify & Challenge

- Ask, don't tell ; listen, don't speak.
- Set frames and shut up!
- More open than open...
- Closed can be good.
- Stop, go, steer...

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Conversation Management

```
graph TD; Account["Account  
\"Tell me about...\""] --> Link["Link  
\"Earlier you said...\""]; Link --> Summary["Summary  
\"So, what you've said is....\""]; Summary --> Probe["Probe  
\"Tell me more about that\""]; Probe --> Account;
```

Set the frame and...


Account
"Tell me about..."

Link
"Earlier you said..."


Probe
"Tell me more about that"


Summary
"So, what you've said is...."

Cheat : "Earlier you didn't mention..."

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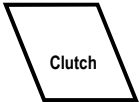
Driving an Interview



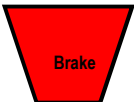


“Earlier you said...”


“Earlier you didn’t mention...”



Clutch



Brake



Accelerate

Summary :

“So, if I’ve got this right, what you’ve said is...”

Closed questions

Mismatching

No eye contact

Passive listening


Instructions to speak / open Qs

Matching


Eye contact

Active listening

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A Few Thoughts...



- If you have gathered any unused material during the investigation, how much time did you waste in doing this?
- If you put anything in your statement that was not from your own knowledge or business records, did you serve a hearsay notice?
- If you have proved, beyond a reasonable doubt, anything other than the points to prove, why did you spend valuable time doing that?
- If you put together a trial bundle, only to see them plead guilty, how annoyed were you at the waste of effort?

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The Abbreviated (AGP) File



- If the person is expected to plead guilty, why produce a trial file?
- In any case, if they do plead not guilty, there will usually be a period of months before the matter comes to trial.
- Only prepare the material which you need for sentence :
 - Service bundle : summons, case summary (MG5), key statements (MG11) and exhibits (listed on MG12)
 - Witness list and dates to avoid (MG9, MG10)
 - Case information and previous convictions (MG1-3, MG16/17)

Questions?




Services

Come and talk to me about :

- *Housing Investigation* training
- Regular '*Training Conferences*'
- *Identity Verification* training
- *Fraud Prevention* training
- Learning to spot liars
- Help in getting started

We'll send you a copy of these slides!

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