

DWP Central Freedom of Information Team

e-mail: freedom-of-information-request@dpw.gov.uk

Our Ref: FOI2019/31656

09 September 2019

Dear Alexander Tiffin,

Thank you for your Freedom of Information (Fol) request received on 28 August. You asked:

In FOI2019/30111 you state that if the DWP interview someone under Caution they must adhere to PACE regulations when doing so.

As I'm sure you are aware, PACE regulations and the caution used in England are not relevant in Scotland.

Detention and interview under Caution rights in Scotland vary from those in England.

Therefore, can you advise if, when interviewing a person under caution in Scotland you follow guildlines as set out in law by the Scottish Parliament and Police Scotland.

A failure do so would constitute a denial of a person's rights per Scottish law. This would leave open the possibility of admissibility as the offenses are tried in Scottish Courts.

Please advise in haste if you will resolve this oversight should it be happening?

DWP Response:

It is confirmed that where DWP staff conduct interviews under caution in Scotland, the procedures followed by interviewers are compliant with Scottish legal requirements to ensure admissibility of evidence and appropriate safeguarding requirements are met for the interviewee.

To clarify, in England and Wales, DWP interviews under caution are conducted in compliance with PACE requirements, as identified in the earlier DWP response, to ensure safeguarding responsibilities are met.

It is noted that the previous enquiry to which you refer was specific to policies around safeguarding and the interview under caution process. It would appear that the response had been specific to England and Wales, given the citing of PACE 1984. I can confirm that there is a safeguarding policy in place in respect of safeguarding which includes customers in Scotland during interviews under caution, which is compliant with Scottish legislative requirements.

If you have any queries about this letter, please contact me quoting the reference number above.

Yours sincerely,

DWP Central Fol Team

Your right to complain under the Freedom of Information Act

If you are not happy with this response you may request an internal review by e-mailing freedom-of-information-request@dwf.gov.uk or by writing to DWP, Central Fol Team, Caxton House, Tothill Street, SW1H 9NA. Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally, the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF
Web: ico.org.uk/Global/contact_us or telephone 0303 123 1113 or 01625 545745