

# Do I need a lawyer at a voluntary police interview under caution?

If the police have called or written asking you to come in for a voluntary interview, the short answer is yes: you are entitled to free legal advice before you go, and you should take it.

A voluntary interview can sound informal. The word “voluntary”, the absence of an arrest, sometimes an offer to arrange it at a time that suits you — all of it suggests a conversation rather than a formal step. It is not. A voluntary interview under caution is a formal police interview. The only thing “voluntary” describes is how you got there: you have not been arrested, and you can leave. Everything said in the room is treated exactly as it would be if you had been arrested.

This article explains what a voluntary interview actually is, what the caution means, why the police often choose this route, and what preparing for one properly involves.

**If the police have asked you to attend a voluntary interview, take legal advice before you go.**

07922 247 999 — available 24 hours.

## What a voluntary interview under caution actually is

A voluntary interview under caution is a formal police interview conducted without an arrest, where the person attends by agreement rather than being detained.

It is governed by the same rules as an interview after arrest: the same caution, the same recording, the same evidential weight for anything you say. “Voluntary” refers only to your attendance. You have not been arrested, you are not being detained, and you are free to leave at any point.

That freedom to leave is real, but it has a limit. If you decline to attend, or decide to leave partway through, the police can arrest you if they consider the grounds for an arrest are met. Voluntary attendance is not a deal that takes arrest off the table. It is the route the police have chosen for now.

	Voluntary interview	Interview after arrest
Caution given	Yes	Yes
Interview recorded	Yes	Yes
What you say is evidence	Yes	Yes
Right to free legal advice	Yes	Yes
You can leave	Yes	No — you are detained
Custody clock running	No	Yes

The interview may take place at a police station, or sometimes at your home. A home interview can feel even less formal than a station one. The setting does not change what the interview is.

[Designer: insert image here — an empty police interview room. A table, two chairs, a recording device. No drama.]

## What “you do not have to say anything” really means

Before the interview starts you will be cautioned, in the same words used after an arrest:

*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.*

It is worth reading slowly, because it carries three separate points.

**You do not have to answer questions.** The right to silence is real. You cannot be compelled to speak, and choosing not to answer is not, on its own, evidence of guilt.

**But silence is not always cost-free.** If you stay silent in the interview and then, at court, rely on something you could have mentioned at the time, the court may be entitled to ask why you did not mention it earlier. That is what “it may harm your defence” refers to. It does not apply to silence by itself. It applies to the gap between what you held back and what you later put forward.

**Anything you say is evidence.** The interview is recorded. At a police station the recording is made under the police codes, and you are given a copy. What you say can be quoted, played to a jury, and weighed months or years later. There is no “off the record” in a police interview.

This is why the decision about how to handle the interview — answer the questions, give a prepared written statement, or decline to comment — is not one to make alone and unprepared. It depends on what the police are actually alleging, and you will not know that until it has been disclosed.

## Why the police choose a voluntary interview

A voluntary interview is often more convenient for the police than an arrest, and it helps to understand why.

An arrest starts the custody clock and brings a set of obligations with it. The police have to justify that the arrest was necessary, book the person into custody, and work within the detention limit. A voluntary interview has none of that. There is no custody clock, no custody suite, and less paperwork. It can be arranged for a convenient date and, in some cases, held at the person’s home.

There is also a quieter reason. People tend to take a voluntary interview less seriously than an arrest. Someone who would certainly ask for a solicitor at a custody desk may decide they do not need one for an interview arranged by phone and described as voluntary. The interview is the same. The likelihood of someone facing it without advice is not.

None of this makes a voluntary interview a trap. It is often a proportionate choice, and the police are required to consider whether an arrest is genuinely necessary. But it does mean the informality is mostly on the surface. The interview underneath it is a formal one.

## How I prepare someone for a voluntary interview

The right to free, independent legal advice applies to a voluntary interview just as it does after an arrest. It does not depend on income, and it does not depend on the offence. You can use the duty solicitor scheme or instruct someone of your choosing, and the advice is available both before the interview and during it. The police should not suggest that declining a solicitor will make the process quicker.

Preparation itself is straightforward. Before the interview, your representative asks the police for disclosure — an account of what is being alleged and why you are being interviewed. That disclosure is often the first time the allegation is set out clearly, and it is frequently narrower, or simply different, from what the person assumed. Only once it is understood can the real question be addressed: whether answering questions, giving a prepared written statement, or declining to comment is the right approach in your situation. There is no single correct answer. It depends on the allegation and the evidence behind it.

Then there is the interview itself. Your representative is present throughout, can intervene if the questioning is unfair or strays beyond what was disclosed, and can advise you in any break.

I attend voluntary interviews directly as a barrister, and stay with the case if it goes further. What preparation does not do is decide the outcome. The police decide whether to take no further action, release under investigation, or charge, on the evidence as a whole. What preparation does is make sure the decisions that are yours to make in that room are made with information rather than without it.

## **What to do if you have been asked to attend**

If you have received a call or letter inviting you to a voluntary interview:

- Do not agree a date until you have taken legal advice. You are entitled to time to arrange representation, and the interview should not go ahead before you have had the chance to consult.
- Ask the police, or have your representative ask, for disclosure before the interview. You are entitled to know what is being alleged.
- Treat it as you would an interview after arrest. The fact that you have not been arrested does not lower what is at stake.
- If you want to instruct someone privately, arrange it early, so they have time to obtain disclosure and prepare with you rather than meeting you at the door.

If the interview is soon and you have not yet taken advice, that is the first call to make: 07922 247 999.

## **Questions people ask me**

### **Is a voluntary police interview serious?**

Yes. A voluntary interview under caution is a formal police interview. The only difference from an interview after arrest is that you attend by agreement rather than being detained. What you say is recorded and can be used as evidence in the same way.

### **Can I leave a voluntary police interview?**

Yes. You can leave at any time, and you can decline to attend. But the police can arrest you if they consider the grounds for an arrest are met. Attending voluntarily does not remove the possibility of arrest during or after the interview.

#### **Do I have to pay for a solicitor at a voluntary interview?**

No. Free, independent legal advice is available for a voluntary interview through the duty solicitor scheme, regardless of your income or the offence. It covers advice before and during the interview. Instructing someone privately is a separate option if you want to choose your representative.

#### **Will asking for a solicitor make me look guilty or slow things down?**

No. Taking legal advice is the normal response to a police interview. The police are not allowed to suggest the interview will be quicker if you decline a solicitor. Asking for advice is expected, not unusual.

#### **Can I be charged after a voluntary interview?**

Yes. After a voluntary interview the police may take no further action, release you under investigation, or charge you. It is the same range of outcomes as an interview after arrest, decided on the evidence as a whole.

### **Before you agree a date**

If the police have asked you to attend a voluntary interview, take advice before you agree a date. That is when it makes the most difference.

**07922 247 999 — available 24 hours.**

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