

Coping with Formal Interviews
Tuesday 19th May 2009, Pinsent Masons Leeds

Gordon Maddan, a Food & Trading Law Advisor, at Pinsent Masons led this event. His experience of managing enforcement relations for a major UK retailer over many years and now working with Pinsentmasons, a leading UK law firm, has armed him with practical interviewing skills that are the envy of many professionals. As an employee of Pinsent Mason, a company which prides itself on being down-to-earth, practical and approachable in all its dealings and relationships, Gordon shared his knowledge and skills to assist businesses in achieving the right outcome from formal interviews.

Many reasons for agreeing to be interviewed were put forward:

- To demonstrate that the company takes the issue seriously
- To give confidence that there is nothing to hide
- To provide the opportunity to get due diligence across and deal with questions
- To convince enforcement that investigation and follow up has taken place and that there is no need for them to be involved further
- Point of difference
- To lay the foundations for subsequent defence

When deciding on tactics to use it was considered important to relate the facts to potential offences and have a clear view of the workable defences. It is beneficial to know the strengths and weaknesses of the case and keep all options open. Care should be taken not to assume any knowledge by enforcers of industry processes or norms. Consider those who should be present at the interview and on what basis.

Preparation was described as key to success in interviews including writing down data that might be requested and preparation of a narrative or reminders for key points.

If cautioned at interview it was advised that a positive and immediate response be given focusing on the aim of the interview, for example, to show that the company takes the issue seriously or to show proper investigation and follow up and that the business is 'on side' with enforcement. Care must be taken to avoid weakening any potential defence.

It is possible for a business representative to steer the interview by taking control wherever an opportunity arises. The business representative could explain that the company has thoroughly investigated the matter and it might be helpful to outline the systems, procedures and training in place designed to minimise the possibility of such an incident. Interviewees must remain totally focussed and keep positive.

It is likely that unexpected situations may arise, for example, documentation may be presented that does not match that received from elsewhere, new complaints may come to light - it is wise to anticipate such events to maintain confidence.

Areas to avoid include legal arguments with the enforcers and venturing opinions based on speculation. Criticising enforcement action to date is not advised, neither is being confrontational or rude.

Encouragement was given to make the most of the opportunity at the end of the interview when asked if you have anything else to say; advise that the Company and its local management team takes the matter extremely seriously and that you have investigated thoroughly; put into context the size of the operation; explain any unusual set of circumstances and any remedial action taken to prevent recurrence; welcome any suggestions for improvement; offer assistance if the interviewers have any further questions following review of information provided.

At the end of the interview advise that you will take any immediate steps necessary e.g. reinvestigation, disciplinary action, securing documents. It is advisable to obtain a copy of the tape of the interview, this enables later review of the answers given, if necessary, write to clarify and expand on your answers. Implementation of any necessary procedural changes can only improve the situation.

Following this guidance will improve confidence and could potentially avoid prosecution.

Catherine Graham

Meetings Secretary, SOFHT Yorkshire & North East Branch