



The Crown Prosecution Service



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Principle

The police will sometimes arrange for a witness to be hypnotised in the hope that he or she will recall further details under hypnosis.

Information obtained under hypnosis should always be treated with great caution. There is a strong likelihood that evidence obtained under hypnosis will be unreliable and inadmissible in criminal proceedings.

A person who has been hypnotised should only be called as witness in exceptional circumstances.

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Guidance

Confabulation – Giving False Information Under Hypnosis

Information obtained under hypnosis may be true or false. The technical term for false information is "confabulation". It is impossible to distinguish between the truth and confabulation unless there is independent evidence confirming the information.

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Cueing

A person under hypnosis may be subject to "cueing". This means:

- explicit or implicit suggestion by the hypnotist;
- something said long before the session;
- something that the witness just happened to be thinking about;
- a fantasy of the witness.

During hypnosis these can become fixed as facts in the mind of the subject. There is no reliable means of guarding against this happening.

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Hypnosis Of The Accused

Any confession obtained by hypnosis is likely to be ruled inadmissible under Sections 76 or 78 Police and Criminal Evidence Act 1984.

Under no circumstances should suspects or persons who may be implicated in the commission of an offence be hypnotised.

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Hypnosis Of A Witness

You should advise the police to restrict the use of hypnotism to people who may be able to give them a lead on an investigation but who will not be called as witnesses.

There may be exceptional circumstances where the witness whom the police wish to hypnotise is the victim of the crime and also the sole witness. It is highly desirable to look for corroboration of any evidence obtained under hypnosis before allowing a prosecution to proceed.

A witness who has been hypnotised will often tell a story full of detail which may appear utterly convincing. No expert will be able to tell if it is the truth or confabulation. The story told under hypnosis will become so firmly fixed in the subject's mind that he or she will become unshakeable in cross examination.

It is probable that the court will exclude the evidence of a witness who has been hypnotised under Section 78 Police and Criminal Evidence Act 1984 on the basis that it would have such an adverse effect upon the fairness of the proceedings that it would be unfair to admit the evidence.

Where there is insufficient evidence to proceed without calling a witness who has been hypnotised, you should exercise great caution before deciding that the evidence of the hypnotised witness will create a realistic prospect of conviction.

Working for the CPS

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