

**WRITTEN QUESTION TO THE MINISTER FOR HOME AFFAIRS  
BY DEPUTY J.M. MAÇON OF ST. SAVIOUR  
ANSWER TO BE TABLED ON TUESDAY 29TH NOVEMBER 2016**

**Question**

What procedures are followed by the States of Jersey Police in taking a breath sample from people aged under 18?

**Answer**

There are no specific procedures regarding the taking of breath samples from people aged under 18 years. Procedures regarding persons below the age of 18 fall under the Police Procedures and Criminal Evidence (Jersey) Law 2003 (PPACE) under CODE C concerning the arrest, detention and questioning of suspects.

Under the Road Traffic (Jersey) Law 1956 there are two articles covering the power to require breath specimens. The first is the taking of a screening specimen often referred to as a roadside test. This test can only be administered if the legal criteria are met. The purpose of the test is to establish if there is sufficient evidence to make an arrest on suspicion of being over the prescribed limit. It is not possible to ascertain this by observation alone and it is a simple yes/no test to establish if an offence is likely to have been committed and establish a power of arrest. It often leads to suspicion being removed and there being no need to make an arrest.

There are no legal criteria regarding the age of the suspect. The requirement for the screening test can be made of any person who falls under the legislation.

The second criterion to obtain a breath specimen is in order to obtain a specimen for analysis. This will generally be following an arrest. Once a person has been arrested all the safeguards under PPACE are applicable. The usual rights for a detained person will be given and in the case of a person under the age of 18 years an appropriate adult will be informed of their arrest and detention. An appropriate adult will be required to attend the police station in order for the formal rights to be given and signed for. An appropriate adult will also be required to be present for any interview.

If the person under 18 years has been arrested for a suspected drinking and driving offence the requirement to provide evidential breath specimens will not be delayed in order for an appropriate adult to attend or for rights to be formally signed for. It has been established that the drinking and driving procedure is not an interview and is not therefore subject to the requirements under PPACE for the interviewing of suspects. The procedure does not need to be delayed to facilitate legal advice.

The obtaining of a breath specimen for analysis should not be delayed as any delay tends to move the analysis result away from what the alcohol level would have been at the time of any alleged offence. It is important in the interests of justice that the test is carried out as soon as possible after the alleged driving incident.

If an appropriate adult was readily available it would be good practice to involve that person in the procedure. However there is no legal requirement to arrange such representation and there must be no delay to the procedure.