



GUIDANCE ON INTERVIEWING
CHILD WITNESSES IN SCOTLAND



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GUIDANCE ON INTERVIEWING CHILD WITNESSES IN SCOTLAND



the children's charity

Scottish Association for Community Child Health



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| FOREWORDS

SUPPORT



Foreword by the Deputy Minister for Justice

The Scottish Executive is committed to modernising the justice system so that victims and witnesses find a system that meets their needs. Child witnesses and victims are especially vulnerable. The whole legal process from the start of an investigation to giving evidence in court can make an already traumatic experience even more upsetting and stressful. We want to increase support and improve standards for child witnesses to help them participate in the legal process and give their best evidence.

This Guidance on Interviewing Child Witnesses in Scotland is the first in a series of guidance documents on Child Witness Support. It aims to set standards of practice which will significantly improve the quality of investigative interviews of child witnesses. It is primarily designed for police and social work but should be taken as a benchmark for any organisation involved in interviewing children.

An earlier draft of the guidance, which was developed by a multi-agency sub group, was published as part of a wider consultation document on Child Witness Support in October 2002. Forty-five of the responses to that consultation were in connection with this guidance. They focused on four main areas: training, use of terminology, video taping interviews, and securing a balance between comprehensive and prescriptive guidance. The points made in those responses have been taken into account in this revised version.

This series of documents will be complemented and strengthened by the measures in the Vulnerable Witnesses (Scotland) Bill which was introduced in June 2003. The provisions in the Bill are designed to allow further assistance and protection to be given to child witnesses enabling them to give their best evidence. Child witness reform is also part of wider reform of the justice system. We have a White Paper with proposals for implementing reform of the High Court of Justiciary and a review of summary justice ongoing, all contributing to key improvements in efficiency which will also benefit child witnesses. This guidance therefore contributes to a wide range of initiatives and legislation which will improve and increase the support for child witnesses.

I welcome this guidance, produced in partnership with other key agencies, and its contribution to securing a criminal justice system that fully supports victims and witnesses.

HUGH HENRY, MSP
Deputy Minister for Justice



Foreword by the Solicitor General for Scotland

Witnesses are fundamental to the operation of the criminal justice system. We ask a lot of our witnesses, particularly our child witnesses and it is, therefore, vital to reduce any unnecessary distress and anxiety which is caused by involvement in criminal proceedings. It is crucial that those who work with child witnesses are equipped with the special skills and understanding to enable children to give their best evidence.

This guidance is intended to assist those conducting interviews with such children and describes good practice in preparing for and conducting these interviews. Many children are particularly vulnerable and may find this interview process very difficult. This vulnerability entitles every child witness to special consideration within the criminal justice system.

The endorsement of this guidance by the key agencies in the criminal justice process demonstrates the collaborative approach that has been taken towards the preparation of this document and it is hoped that it will provide an example of “best practice” to ensure that investigative interviews of children are conducted to the highest standard and that child witnesses are able to participate fully in the process.

Although the guidance focuses primarily on investigative interview techniques employed by the police and social work, much of the advice on offer is equally applicable to those who conduct interviews with children at any stage of criminal proceedings, for instance those who precognosce child witnesses on behalf of the Crown, defence solicitors and the Scottish Children’s Reporters Administration.

Recognising that every child is different, it is intended that this guidance will provide to those conducting investigative interviews a flexible framework that can be adapted to the individual needs of each child.

A handwritten signature in black ink that reads "Elish Angiolini". The signature is written in a cursive, slightly slanted style.

ELISH ANGIOLINI, QC
Solicitor General for Scotland



Foreword by the President of the Law Society of Scotland

The Law Society of Scotland has a unique role in the administration of justice in Scotland. Not only is the Society concerned with the administration of justice from the perspective of the legal profession, it is equally concerned from the viewpoint of the public, the stakeholders in the justice system whether as victims, witnesses or accused persons. The Society is therefore committed to working with others in improving and modernising the justice system as a whole.

Children have a special place in that system and it is important that they are given the support necessary to participate effectively in the process. For many, their first contact with the legal system will be through professionals, such as the police and social workers, who conduct investigative interviews. Professionals such as these must be sufficiently trained in interviewing techniques and practice so that they can ensure that the child is protected from unnecessary distress and that the investigative interview is conducted effectively. The Guidance on Interviewing Child Witnesses is an excellent and comprehensive guide for all those who are involved in interviewing children in the justice system.

This guidance is part of a much wider programme of work designed to improve the treatment of victims and witnesses in the justice system. The Society welcomes these developments and believes that the identification of potentially vulnerable witnesses at an early stage in the case and the co-ordinated communication of that information to all involved is crucial to improving the treatment of these witnesses. Identification of vulnerable and intimidated witnesses is a practical rather than a legal issue and must be tackled through increasing awareness and sensitivity and by enhancing the knowledge and skills of everyone involved in the justice process. This guidance, together with training and other current initiatives, will improve the support which is available for child witnesses.

The Society is grateful for having had the opportunity to contribute to the development of this guidance and looks forward to seeing it working in practice.

A handwritten signature in dark ink, appearing to read 'Joseph Platt'. The signature is fluid and cursive, written on a light-colored background.

JOSEPH PLATT

President of the Law Society of Scotland

PART ONE

INTRODUCTION

SUPPORT

INTRODUCTION

- 1 A Working Group on Child Witness Support was established in 1995 by the (then) Lord Advocate with the aim of improving arrangements for the support and preparation for court of child witnesses, and enhancing practice in relation to all child witnesses across the full range of legal proceedings, without jeopardising the rights or responsibilities of others in the court process. The Working Group reported in 1999 with 16 sets of recommendations. This document contains guidance developed in response to recommendation 7.1 which stated that in order to improve the conduct of interviews and precognitions with young witnesses, “all relevant organisations” should be invited to:
 - co-operate in the development of guidance on the conduct and recording of investigative interviews of children by police officers and social workers, on the basis that implementation of standard guidance would improve the quality and consistency of interviews and assist in reducing the need for others to re-interview the child about the circumstances of the alleged offence.
- 2 The guidance starts from the premise that every child has a right to protection from harm, abuse and exploitation. Where a child has suffered from such treatment, and agencies involved in child protection are called to intervene, the child’s welfare should be of paramount importance when considering their needs and that of justice. Care must be taken that children do not suffer any undue distress during investigations into allegations or information received. Moreover, agencies should endeavour to treat children as individuals, and involve them in decisions that affect their future. These principles are founded in the United Nations Convention on the Rights of the Child and the Children (Scotland) Act 1995.
- 3 The guidance has been written primarily in the context of criminal proceedings and Scottish Children’s Reporter Administration proceedings. As such, its aim is to:
 - improve the quality of investigative interviews and the sharing of information;
 - reduce the number of times the child is interviewed; and
 - set out good practice for any organisation involved in interviewing children who may be witnesses,all with a view to safeguarding the welfare of children. **However, it will also be relevant for all professionals who undertake investigative interviews with child witnesses.**¹

¹ Generally, in the context of this guidance, ‘very young children’ refers to pre-schoolers (i.e. up to 5 years of age), ‘young children’ to those of primary school age (i.e. up to 11 years of age), and ‘older children’ to young persons of secondary school age (i.e. over 11 years of age).

- 4 The guidance was commissioned from Dr Amina Memon and Lynn Hulse at Aberdeen University. Their work was overseen by a steering group with representatives from the Scottish Executive Justice Department, the Crown Office and Procurator Fiscal Service, NCH Scotland, the Association of Chief Police Officers in Scotland, the Association of Directors of Social Work, the Law Society for Scotland, the Scottish Association of Community Child Health and the Scottish Children’s Reporter Administration. A full list of those involved is given in the Appendix C.

PART TWO

BACKGROUND



BACKGROUND

Aims of the guidance

- 5 The guidance focuses primarily on practices used by police and social work for gathering information and evidence during the investigative phase of criminal cases, with the aim of improving the quality of investigative interviewing. It also contains good practice for *any* organisation involved in interviewing children, whether it be part of a criminal or civil case or in other circumstances. Similarly, while many of the examples in this guidance refer to child sexual abuse cases, the procedures described in this document should be used with *any* type of case involving child witnesses. Note, children may be questioned by other professionals at other times in the legal process, e.g. in court. The methods used by such professionals should also serve to safeguard children's welfare whilst facilitating best evidence – see Ellison (2001) for example.
- 6 It aims to provide a clear outline of the purposes of investigative interviews and of the procedures and techniques that comprise current best practice.
- 7 It must be stressed that each child and their circumstances are unique, therefore interviews should be tailored according to the individual child and situation. However, this guidance provides a *flexible* interview framework that may be applied and adapted for use with all child witnesses. It may also be useful with persons classified as vulnerable witnesses² and people aged 16 and 17 years old who are subject to supervision requirements regarding SCRA proceedings.

Definition of the 'Investigative Interview'

An investigative interview is “a formal, planned interview with a child, carried out by staff trained and competent to conduct it, for the purposes of gaining the child's account of events (if any) which require investigation”.

² As well as children under 16 years of age, Scotland's current legal definition of vulnerable witnesses encompasses: an adult who is subject to a mental health court order; or an adult with significant impairment of intelligence and social functioning. The Vulnerable Witnesses (Scotland) Bill introduced to Parliament on 23 June 2003, aims to widen this definition, for example to include people who have a mental disorder and creating a discretionary category to cover witnesses whose evidence may be diminished due to fear or distress. Further information about this Bill can be found on the Scottish Executive webpages:

www.scotland.gov.uk/vitalvoices

- 8 This guidance is concerned with the formal interviews carried out primarily for evidential and risk assessment purposes. Although children may first approach those people who are around them daily (e.g. teachers, parents) to communicate their worries, these discussions are not to be confused with the investigative interview. If a child does spontaneously disclose information – outside of the formal context – of a nature that might require investigation by the authorities, the receiver should: (i) *listen*, and support the child; (ii) make a written record of the child’s remarks in their words as soon afterwards and as accurate as possible; and (iii) seek help from the appropriate agencies. Professionals working in such areas as education and health, for example, should follow the procedures set out in their local Child Protection Committee guidelines.
- 9 Disclosures of incidents such as sexual or physical abuse might also occur unexpectedly during counselling or assessment sessions, held to address other issues (e.g. behavioural problems the child has been displaying at school). Discussions within these settings should not be confused with investigative interviews. Nor should investigative interviews be confused with interviews conducted for therapeutic purposes (see paragraph 15 Investigative versus therapeutic goals and techniques).
- 10 The process surrounding an investigative interview will have several phases. From contacts with the main agencies and organisations involved, it is clear that the terminology currently used varies across areas and professional groups. Ideally, there should be a common terminology so that the processes and procedures adopted and in place are readily understood across all disciplines and organisations.
- 11 There are a number of possible triggers for an investigative interview. A key one is a child protection referral. In all such cases, the first step should be for all those involved (generally police and social work but also, for example and where appropriate, health professionals) to undertake initial referral checks. It is important at this stage that any other professionals with an interest are drawn into the process.
- 12 Thereafter, the following sets out the various steps that should be taken.
 - Initial referral discussion (sometimes called a strategy discussion) – this may identify further information needed or that further checks need to be carried out. Or it may identify an immediate risk, in which case urgent action will be needed and should be taken – involving emergency powers/child protection orders.

- (If needed and if no immediate risk has been identified) a full case discussion and planning meeting involving all the agencies – at which risks may be re-assessed and initial plans would be drawn up. Such plans would cover the handling of the interview. It may also be appropriate to plan at this stage for a medical examination. That would involve either a Comprehensive Medical Assessment where concerns are raised about possible physical abuse and neglect or a Joint Paediatric/Forensic examination to gather medical and forensic evidence in cases of alleged sexual abuse and cases of significant physical injury. (More detail on the Comprehensive Medical Assessment and the Joint Paediatric/Forensic examination are given in the Scottish Executive publication, *Protecting Children a Shared Responsibility, Guidance for Health Professionals in Scotland*, January 2000.)
- Pre-interview briefing meeting – to ensure that those who undertake the interview are fully aware of all the issues.
- The investigative interview will then take place.
- This should *a/ways* be followed by a de-briefing meeting. This will allow those involved fully to explore and assess the information received.
- That, in turn, will direct the final stage. This will generally involve:
 - A child protection conference which will decide whether to register the child on the Child Protection Register and will formulate a child protection plan.
 - In some cases further, there may also be grounds for interviewing suspects prior to a report to the Scottish Children's Reporter Administration or the Procurator Fiscal – or possibly both.

- 13 The main purposes of the investigative interview are as follows:
- to learn the child's account of the circumstances that prompted the enquiry
 - to gather information to permit decision making on whether the child in question, or any other child, is in need of protection
 - to establish whether a crime has been committed.
- 14 The joint paediatric forensic examination has some overlap with the investigative interview and the general principles laid out in this document may be relevant to paediatricians and police surgeons. They will also be applicable to interviews conducted by precognoscers.

Investigative versus therapeutic goals and techniques

- 15 It is important to make a distinction between an investigative interview and therapy. Research shows that procedures that might make sense in therapeutic settings (e.g. playroom environment, direct questioning about pain/harm) are not always suitable for investigative interviews (see Poole & Lamb, 1998). Therapy-focused interviews may compromise the investigative function. A therapy-focused approach (e.g. clinical approach to interviewing) should therefore not be adopted in an investigative interview. That is not to say an investigative interview should not include certain qualities also common in a therapeutic interview, i.e. empathy and being sensitive to children's feelings and emotional reactions to questions. Indeed, the child may find the interview to be a therapeutic experience.

The guidance and training

- 16 This guidance is only the first step to improving interviewing in child protection cases. To ensure best practice is actually *implemented and maintained*, the various agencies involved will need to devise compatible joint training programmes and review strategies, which must be kept up-to-date. To ensure consistency across Scotland, we recommend that a standardised national model to be developed centrally by ACPOS and the Social Care Council, creating a National Training Curriculum. This curriculum should then be delivered to police officers and social workers on a localised basis. This will require considerable collaboration on both a professional and personal level. Training will be necessary not only for those persons who will conduct the interviews, but also management and supervisors who will oversee the investigations. Through training the different agencies can appreciate and respect each other's professional roles and responsibilities. The identification of shared goals and collaboration will strengthen the links between police and social work.
- 17 This guidance document should thus be used in conjunction with a suitable programme of training or a national curriculum based on the guidance set out in this document. We advise an intensive programme of training. The training should provide appropriate background information concerning all the topics set out in this document. There should also be ample opportunity to practice and obtain feedback on the techniques set out below. Practice interviews should be video-recorded and reviewed to provide examples of good and bad practice. Of course, much learning will be done during actual interviews in real life cases. Therefore, following training, there should be ongoing monitoring, supervision and refresher courses to assess how well procedures learnt in training have been implemented in the field, and to allow a two-way sharing of information between practitioners and training staff.

PART THREE

PLANNING THE INVESTIGATIVE INTERVIEW

SUPPORT

PLANNING THE INVESTIGATIVE INTERVIEW

- 18 This guidance advocates the joint interview wherever possible, i.e that police and social work plan and conduct investigative interviews together. A formal planning meeting prior to the interview is strongly advised. This has several benefits. It will enable interviewers to discuss the needs of the child (see *part 5. Special Needs*). It will enable the interviewers to agree on the interview location – subject to consultation with the child and caregiver – and the procedure, recording of interview details, and so on. It will also allow for speedier and more informed progress in the investigation since risk assessments can be carried out together and reduce the number of interviews that need to be conducted. The decision as to whether or not to conduct an interview jointly will be a matter for both the Senior Social Worker and Police Supervisor involved with the case.
- 19 There may be a need, with certain cases, for collaboration with forces and child protection agencies in England and Wales. The police have cross-border powers to investigate and it would normally be a matter of police protocol as to which persons from which forces would lead the investigation, where the interview would take place, and so forth. Agencies involved in child protection in England and Wales follow the Home Office guidance, *Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable or Intimidated Witnesses, including Children*. The procedures and practice outlined in this document generally complement that in *Achieving Best Evidence*.
- 20 Minutes should be taken for every planning meeting, in particular detailing all decisions made, who was involved in making them and justifications for making them. Copies of Minutes should be kept by both agencies.

SOME POINTS FOR PLANNING

This list is not exhaustive; rather interviewers should view it as an aid for developing more comprehensive lists of issues to be considered when interviewing child witnesses. It should also be reiterated that the interviews should always be tailored to the particular child and the particular set of circumstances instigating the investigation.

- The child's age and gender
- Their race, culture, religion, ethnicity, first language and whether an interpreter is required
- Their cognitive (e.g. attention and memory) and linguistic (comprehension and speech, vocabulary) abilities and range of behaviours
- Their present emotional state
- Any mental and/or physical health requirements

- Any mental, physical or learning impairments that require specialist input/attention
- The child's family composition and living arrangements
- The nature of the child's relationships with family members and/or carers
- Daily routines, bath, bed, meals, etc.
- Any sources of stress for the child and/or the family (e.g. bereavement, marriage break-up, redundancy, house move, bullying, sickness/incapacitation, domestic violence)
- Any previous involvement with child protection agencies – if so, the nature of such
- Details of previous action taken and support provided (e.g. any therapy/counselling)
- Other sources of information: parents, carers, teachers, GPs, child psychologists
- Contingency plans (e.g. for retraction of earlier statement, change in lead interviewer)

Purpose of interview

21 All those involved in the case must clarify and define the purpose of the interview(s) to be conducted and also the topics to be explored, i.e. from a police perspective the purpose of the interview is generally to establish whether a crime has been committed or not, and if so what evidence is available from the child. It is vital that both interviewers enter the interview situation with a clear understanding of how this will further the investigation, and are sure that interviewing the child is a necessary next step to take (i.e. all other sources of information have first been exhausted). Naturally, there will be a degree of uncertainty as to what will come out of the interview, but by having all the background information at their fingertips, the interviewers should have some idea of the direction of the enquiry.

The interviewers

- 22 To reiterate, investigative interviews should be carried out by professionals who are “trained and competent” to conduct them – that is, trained to a standard approved by the Association of Chief Police Officers in Scotland and the Social Care Council (see *paragraphs 16 and 17* above). Until these standards are achieved, availability of suitable interview personnel will still be an issue. Both interviewers should be familiar with the legal system and evidential requirements (e.g. different standards of proof for criminal and civil proceedings). They should also have some knowledge of the child’s understanding of language and their needs (see *part 5. Special Needs*). Moreover, knowledge of the impact of abuse upon a child’s cognitive, emotional and social development is desirable.
- 23 The lead interviewer may be from **either** the police **or** social work and will be identified after due consideration of all factors (preferred gender, race, experience of interviewing, any previous experience with the particular child, likelihood of establishing best rapport with the child). The lead interviewer will take primary responsibility for gathering information during the interview.
- 24 The second interviewer will also have a clear, **active** role. His/her duty will be to monitor and accurately record the questions, answers and demeanour of both the child and lead interviewer. Moreover, he/she will look for inconsistencies or gaps in the child’s account, and any misinterpretations on the interviewer or child’s part. The second interviewer can direct the lead interviewer and ask questions but only at the appropriate phase of the interview and following the guidelines set out below (see *part 4. Conducting the interview*, in particular).

Location of interview

- 25 The interview should be held in a suitable setting, one in which the child feels safe and comfortable. The child or his/her guardian should be consulted in advance about this matter if appropriate. The décor should be child-friendly and welcoming but not distracting. The interview room should be somewhere private, and devoid of background noise. This is particularly important for witnesses with hearing impairments where similar sounding words may be confused. It is also important that the interviewer accurately hears the child’s response.

- 26 A small range of age- and gender-appropriate play materials can be available, e.g. crayons and paper, but should only be used where they will put the child at ease thereby making them more capable of giving their account and participating fully in the interview. A room full of toys is not advisable. Older children may find toys patronising and they may be unsuitable for younger and hyperactive children who are easily distracted.

Timing of interview

- 27 When planning the interview, the child's routines (e.g. mealtimes, bedtime, bathtime, etc.) and any religious practices (prayer times, holy days) should be taken into consideration. Interviewers may also wish to avoid taking children out of their school classes or from other locations where their removal might be conspicuous and/or cause embarrassment (e.g. youth or sports clubs).
- 28 However, in certain situations where there are clear grounds for concern over the child's welfare and safety, it may be imperative to talk to the child immediately.
- 29 If more than one interview is planned, interviewers should aim to conduct these at a regular time, keeping the child fully informed, thus reducing the child's feelings of uncertainty.

Number and duration of interviews

- 30 One of the major aims of the joint interview is to reduce the overall number of interviews conducted. Hence, it would be preferable if police and social work gather all the necessary information from just one single interview. This is not always possible. Sometimes it may take more than one interview to build rapport with the child or an interview may need to be terminated and rescheduled if a child becomes too upset (see *paragraph 107 Debriefing and further interviews*). Where more than one interview is to be conducted, it is important that the needs of justice be carefully balanced with the needs of the child. Extra information *could* be acquired following each subsequent interview. However, the greater the number of further interviews, the more likely each successive one is to be perceived as excessive and unnecessary and this will, in turn, affect the strength of evidence obtained. Furthermore, the emotional trauma and stress that the child may endure from repeatedly recalling the event(s) could have serious repercussions for their wellbeing. Another problem interviewers must be aware of, particularly with multiple interviews, is that of *confirmation bias*; suggestions might be instilled in the child's mind and then reinforced within and across interviews and interviewers.³

³ A biased interviewer is one who holds prior beliefs about the occurrence or non-occurrence of certain events. Consequently this may shape the interviewer's line of enquiry such that they obtain statements from witnesses that are consistent with prior beliefs (for example, see White, Leichtman & Ceci, 1997). Biased interviews are not just restricted to professionals who interview children but can include parents, teachers and others.

- 31 It is good for both the interviewers and the child to have an approximate idea of how long the interview is likely to last. This will depend primarily on the child – their pace, attention span, specific needs, willingness to talk, etc.
- 32 The child will also benefit from having some idea of when breaks will be available. Interviewers should never persist in interviewing a child beyond a point where they are no longer capable of sustaining concentration and show signs of tiredness or distress.

Issue of consent

- 33 ***Although not a legal requirement, it is best practice to always seek a child's consent when wishing to interview them.*** The child's consent should also be separately sought in relation to the audio or video recording of that interview. In conducting the interview, the interviewer should have regard to the age and maturity of the child concerned and any special needs that the child may have.
- 34 Where appropriate, steps should also be taken to keep parents/guardians informed of the unfolding situation. In certain cases, the interviewers may need to see the child without the knowledge or consent of the parent/guardian. For example, where there are strong grounds to suspect that they are involved in the abuse. If this is necessary, a record should be made by *both* agencies detailing the reasons for excluding them.
- 35 Even where there are compelling reasons to exclude a parent or guardian from the investigative enquiries, they still have the right to courtesy and consideration.

Recording of interview

- 36 A record of the interview must be taken while it is being conducted. One advantage of the joint interview is that one interviewer records what is being said, or being demonstrated non-verbally, leaving the other interviewer free to listen to the child and think of appropriate questions.
- 37 It is current practice for interviewers to then write a joint record of the interview afterwards, as soon as is possible and while the proceedings are still fresh in their memories. Research (e.g. Warren & Woodall, 1999) shows that professional interviewers tend to misremember the questions they asked in an interview even when questioned immediately after the interview. This can have serious consequences if an interviewer obtained a response from a child as a result of asking a leading or misleading question but failed to remember that. Therefore, it is extremely important that the record taken *during* the interview is full, accurate, and verbatim.

- 18
- 38 Details should cover such things as room layout and seating positions. They must also include the date, time and duration of the interview; any breaks or interruptions; most importantly, the child's remarks and the questions that prompted these (in the exact words used); and non-verbal behaviour (the child's actions, e.g. "He grabbed me here (*pointing to body part*)" and their demeanour). Observations must be objective – interviewers should avoid overly interpreting or making inferences from the behaviour of a child.
- 39 The original record should be retained by the Police and a copy sent to social work.

Note: At present, investigative interviews carried out in Scotland with child witnesses are recorded by hand. This is a demanding task and one which many practitioners have expressed difficulty with even when using the joint interview approach. It is recommended that alternative methods are investigated for the future. We refer practitioners to the provision in the Criminal Procedure (Scotland) Act 1995 (*see sections 260 and 262*) allows prior statements by a child witness to be admitted as evidence at court in place of their evidence in chief. The legislation requires that the statement must be contained in a document, the definition of which includes audio and visual formats. The child is still required to come to court, in the event there are criminal proceedings, and must adopt the recorded interview as his/her evidence. S/he may also still be cross-examined on the contents of the recorded statement at court by the defence and the interviewers may be cited to court to be questioned on the manner of the interview.

There are advantages to using a recorded interview as the child's prior statement in this way.⁴ It should reduce the need for repeated precognition; and the impact of the interview is preserved in a way that can be lost in a handwritten record of interview. Pilot work is currently being taken forward to test out how best such an arrangement would work in practice.

Meantime, in assessing whether to use audio or video tapes, a number of factors should be borne in mind. A Court will wish to satisfy itself regarding the age and capacity of the child as to whether s/he can adopt the statement so that the recorded interview can stand as evidence in chief.⁵

⁴ Research (see Cashmore, 2002 for a review) suggests that there are many advantages to electronic recording. It increases the chances of an accurate and complete statement by providing a verbatim account of questions and answers. This is especially important given the fact that children's language is so dependent on the questioning context. It can also be used to refresh the child's memory for events that occurred some time earlier. Finally, a video-recording provides information on the quality of the investigative interview.

⁵ The Vulnerable Witnesses (Scotland) Bill provides that a recorded interview can be the evidence in chief of a vulnerable witness without the need for that witness to adopt the statement. The witness would still require to be cross-examined. In terms of the Bill all child witnesses (aged under 16) are considered vulnerable witnesses.

It will also be for the Procurator Fiscal to determine whether a recorded interview can be used in this way. Formally, a prior statement will not be admissible unless the witness who made it would have been a competent witness to the proceedings at the time the statement was made. In that case, the court could still seek to satisfy itself that a child witness was competent. On an administrative level, two copies of a tape must be made and a transcript of the interview taped in this way must be provided to the Procurator Fiscal.

Other persons present at interview

- 40 Personnel should be kept to a minimum, to avoid intimidating or inhibiting the child. In most circumstances, it is best for only the two interviewers to be present in the room with the child. In certain cases, however, a child may wish for, and benefit from having, a support adult present. Every effort should be made to establish that this person is not a witness or potential witness, nor someone who has a personal investment in the case. Moreover, in certain circumstances, the support person should not be a parent or carer. This is important if, for example, the parent/carer is suspected of being directly involved in the abuse or their relationship with the abuser is likely to lead to a conflict of interests (see also *part 5* about personnel at interviews with children who have a disability, are very young or whose first language is not English). Under no circumstances should the interview be conducted in the presence of the person alleged or suspected to be causing the child harm or distress.
- 41 If a support adult is to be present, they must be aware that they are not to participate in the interview itself (i.e. no answering of questions, or prompting of the child). They must also watch their body language and facial expressions to avoid conveying any emotions or intentions towards the child. Their role is to *support* in the sense that their presence during the interview is comforting and reassuring.
- 42 It must be noted, however, that the presence of a supporter might be more of a hindrance to the child, especially if that adult is someone the child has a particular relationship with (e.g. teacher, parent) and the child feels uncomfortable about them knowing intimate details of their personal life. If a parent insists on being present and the interviewers do not feel this would be appropriate, the police do have common law power to exclude them from the interview.

- 43 If a supporter is present, it is best that they are there only for the rapport phase until the child is settled. They should always sit out of the line of the child's vision but can move to physically comfort the child if the need arises. One possibility, if the child is willing, is to have the adult sit in an adjacent room. This can often placate the worries of both the child and the adult, whilst ensuring the interview remains private and unhindered. The child is informed that the adult is next door and on hand should they be needed.

Non-disclosure

- 44 While the purpose of the investigative interview is to establish whether the child is or has been exposed to risk from abuse or other types of criminal conduct, interviewers must never enter the interview with the intention of only seeking information that substantiates a suspicion/allegation. **Interviewers must always keep an open mind.** Thus, they should aim to obtain information regarding several alternative hypotheses, e.g. details that *refute* the suspicion/allegation and offer another explanation for the event(s). Note the point above that was made about *confirmation bias*.
- 45 A child's age, their perception of how safe it is to talk to the authorities, their family circumstances, religion, culture or other factors may determine whether or not he or she discloses.
- 46 When a child does not disclose evidentially relevant information during an interview, this is an acceptable outcome, not a failure on anyone's part especially the child's. It may be that the child is not yet willing or able to tell, or that they have not been the victim of, or witnessed, any wrongdoing. Where there is no disclosure, interviewers should remember to properly conclude the interview following the guidance set out in paragraphs 105 and 106 (*Closure phase*).
- 47 It is also not uncommon for children to deny or retract earlier allegations, although no inferences should be drawn from this. Interviewers should prepare and plan for all these eventualities.

PART FOUR

CONDUCTING THE INTERVIEW

SUPPORTING
CONDUCTING

CONDUCTING THE INTERVIEW

- 48 We strongly advise a phased approach to interviewing. All investigative interviews with a child should be comprised of the phases described below.

The phases of the interview

- Introductions
- Rapport Phase
- Free Narrative
- Questioning
- Closure Phase

- 49 The interview framework described here is similar to, and incorporates many features and techniques from, several other interview formats described in the literature – the phased interview, stepwise interview, the structured interview protocol, cognitive interview, to name a few (see *part 6. Further Reading and References*). The general principle behind this approach is to elicit an as accurate and comprehensive account of event(s) from a child as possible, one that may stand up to the scrutiny of the court as legally sound testimony. Although there are five distinct phases, there may be some overlap between these and interviewers should be prepared to switch back and forth between them.

- 50 It must be emphasised that to effectively apply the techniques described in this guidance in an actual interview setting will require a considerable amount of skill and practice on the interviewers' behalfs. Thus, extensive training *must* be undertaken, and this should be up-to-date involving proper practice and feedback from other practitioners and trained supervisors (see *paragraph 16 The guidance and training*).

Introductions and explaining purpose

- 51 Once in the interview room, both interviewers should sit somewhere with an unobstructed view of the child but not in a fashion that might come across as confrontational. Since the child's focus is likely to be directed towards the lead interviewer in the substantive phase of the interview, the second interviewer should be seated somewhere where they can show they are listening to what the child has to say. At the same time they should avoid distracting the child with a look or action that might impede the child's statement.

52 Interviewers should introduce all persons present in the interview room to the child and explain, in age-appropriate language, why each person is in the room. Any preconceptions or misperceptions about the police and social workers (e.g. police only come to see people when they are going to lock them up) can be addressed at this time. The child's preferred name or mode of address should be established. The purpose of the interview should be explained as clearly and simply to the child who should also be given an opportunity to ask questions.

e.g. "Hello (*child's name*). My name is _____. I am a police officer/social worker/etc. Part of my job is to listen to children and young people. Sometimes they have things that they want to tell me."

"Do you have any questions about why you are here today?"

53 Children will attend to interviews more successfully when they have a better understanding of the interview purpose. To avoid bias, interviewers should be careful not to suggest the allegation being investigated. Even where the initial concern originated from something the child had said, it is important for the interviewers to hear the child disclose and elaborate on this during the course of the interview with minimal prompting. The aim is to obtain the child's memories of the event(s), *in their own words*.

54 Another point to explain to the child is that the interview will be recorded. A good way to do this is:

- "I will be writing things down because I want to be sure I remember it properly."
- Before proceeding on to the next stage, interviewers must obtain the child's consent to interview if they have not already done so.

Note: It is important that children are kept informed not only at the planning and interview stages but throughout the course of the whole legal process.

Rapport Phase: establishing a child-centred interview

55 This phase is very important and **should never be omitted**. How long is spent building rapport depends on the child and their particular circumstances. While some children may be very aware of why they are about to be interviewed and wish to open up straight away, most children will need time before they can talk openly with the interviewers. Thus, the rapport phase would be shorter in the former instance, and more time would be spent in the latter. Building rapport can overcome any initial hesitance, unease or mistrust. It also conveys to the child that they are the most important (central) person in the interview and they are the one who holds the knowledge, not the interviewer.

- 56 The rapport phase is moreover an excellent opportunity for the interviewer to gain a better understanding of the child’s communication skills and current stage of cognitive, social and emotional development. For example, during rapport-building the interviewer may become aware that the child who is apparently “street-wise” might, in reality, only have a superficial understanding.

Interview atmosphere

- 57 The child should feel as relaxed and as comfortable as possible before beginning the interview. Interviewers should try not to over-emphasise their authority in relation to the child as this might cause the child to clam up or to simply agree with whatever the interviewer says. Police interviewers should wear civilian clothes rather than uniform. Recent research confirms that more information can be obtained from a child when the interviewer is *not* in uniform (Powell, Wilson & Croft, in press).
- 58 Other methods interviewers might find conducive include for a very young child sitting down on the floor to be at eye-level. In essence, the interviewer is trying to shift the balance of control in favour of the child. Consequently, the child should feel empowered, which may reduce the desire to simply respond to questions to please the interviewer.
- 59 ***The pace of the interview should be dictated primarily by the child.*** Their developmental age, attention span, the time it takes for them to overcome any initial mistrust they might have of the interviewers, and so on will all affect the length and pace of the interview. The number and complexity of alleged incidents will also impact on the overall duration of the interview.
- 60 Interviewers should speak slowly and clearly and allow for *pauses*. They should refrain from interrupting the child or immediately “jumping in” when the child appears reluctant/unable to talk. In fact, pausing and not interrupting the child is the best technique for allowing the child to search their memory effectively. Interviewers should also speak in a normal voice tone; an affected tone may convey a sense of worry or be perceived as patronising.
- 61 Interviewers must also be vigilant for signs of fatigue in the child, or the need for a refreshment or toilet break. If the child does wish to take a break, this should never be withheld or offered as a reward in an effort to extract a disclosure. Interviewers should not attempt to drive proceedings along or continue questioning a child that has become very distressed or restless (at the same time, interviewers should not be too hasty to offer breaks when the topic turns to something difficult or embarrassing. This could indicate to the child that the interviewer cannot cope with what they are about to hear).

If breaks are taken, a note should be kept of the reasons for them, how long they lasted, what the child was doing during the break, who they spoke to, what was said, and so on.

- 62 As an icebreaker, interviewers might begin with a few general words about, e.g. the journey to the interview location or what subjects the child had at school that day. The interview then enters the phase where the interviewer introduces the format the subsequent substantive interview will follow – using neutral topics – and encourages the child to talk about themselves.
- 63 Taking into account all the factors above emphasises the need for flexibility to meet the individual circumstances as presented in each case.

Ground rules

- 64 Before the child begins the main part of the interview (and particularly before any questions are asked) the interviewer must make clear “ground rules” of the interview. It is recommended that interviewers do not just ask whether the child understands the rules but check by giving examples (see APPENDIX A).
- 65 Appropriate ground rules to communicate to the child are:
- The interviewer is there mainly to listen. This is the child’s chance to do most of the talking.
 - The interviewer was not present at the event(s) and therefore needs the child’s help to understand what happened.
 - Even if the child thinks the interviewer already knows something, they should still tell them anyway.
 - If the interviewer asks a question that the child does not know or remember the answer to, it is okay for the child to say “I don’t know/remember”.
 - If the interviewer asks a question that the child finds too difficult or unclear, the child should let the interviewer know so they can rephrase it or approach the subject in a different way.
 - The child should not try to guess the answers. They should only talk about true things, things that really happened.
 - If the interviewer makes a mistake, or says something that is not true, it is okay for the child to correct the interviewer.
 - Sometimes the interviewer will ask the child the same question again. This does not mean that the child gave the wrong answer the first time, it is just to help the interviewer remember what has been said. The child should always tell the truth.

Telling the truth

66 The child does not have to take the oath for an investigative interview but it is advisable to make them aware at the outset of the importance of giving their *own*, true account. By “true account”, that is saying what *they believe* has happened. Interviewers should not ask for definitions of what is a truth or a lie as this is a difficult task, even for adults. Instead, the interviewer should emphasise that they want to know what the child actually saw with their own eyes, heard with their own ears, smelled with their own nose and tasted with their own mouth.

“I want you to tell me what really happened, even if you said something different to somebody else at some other time.”

- Don't tell me anything pretend
- Don't guess about things
- Don't tell me what someone else told you to say happened

67 There are no commonly accepted criteria for assessing child witness competency and available research findings lead us to question whether the varied procedures currently used can discriminate between witnesses who will be reliable and those who will not (Lyon, Saywitz, Kaplan & Dorado, 2001).

68 Prior research on children's conceptual knowledge of lies and truth-telling suggests that children possess a good understanding of these concepts provided they are questioned appropriately (Bussey, 1992). Lyon and Saywitz (1999) designed a task that would help very young children identify truth and lies. They presented 4 and 5 year olds with pictures depicting an object and two children accompanied by “conversation bubbles” stating what each child said about the object. One character is said to be telling a lie and the other a truth. The child is simply asked to say which child is telling the truth. The task reduces motivational problems because the child is not asked to identify the interviewer as a liar. The truth/lie task is then followed with a morality task. It shows the same characters but now they are pictured with firstly a judge, then a “lady who comes to visit”, the characters at home, next a doctor and then finally Grandma. The child is asked in each instance which character will get into trouble for what they have said (a truth or a lie). Together, these tasks are designed to demonstrate that very young children understand: (i) that the word “truth” refers to statements corresponding with reality and that “lie” refers to statements that fail to reflect reality; and (ii) that there are consequences when someone lies. (For an illustration, please see Lyon and Saywitz 1999.)

- 69 The above is one example that can be used with very young children. With young children, the interviewer might use something similar to the following example:

Interviewer: "If a classmate was playing football outside and kicked the ball, accidentally smashing a window, but told the teacher *you* had broken the window, would this be a truth or a lie?" (*wait for the child's response*)

Interviewer: "What should your classmate have said?" (*wait for child's response*)

Interviewer: "Why do you think they said it was you?"

Further examples of questions designed to explore competency with young children can be found in Walker (1999).

- 70 With older children, similar examples to the one above may be used but should involve scenarios more appropriate for their age and level of understanding. Alternatively, the older child could be asked to provide their own example, following the same format as that provided in this guidance (i.e. a scenario is set out, then the child says what they think the person lying should have said, and finally says why they think that person lied).

Note: the examples provided in this document are not prescriptive. Instead they should just be used as a guide as to the format that questions about competency should take. Interviewers should modify the examples so they are suitable for the individual child.

- 71 For children with special needs, advice about a child's developmental level should guide interviewers as to the type of question to ask.⁶

Rapport building with a practice interview

- 72 Once ground rules have been established, a practice interview can be conducted. The topic for the practice interview should be a neutral, personally experienced event. This may be to do with, e.g. the child's school, hobbies, a birthday, or a holiday (see APPENDIX A for an example). The interviewer should ask the child to describe the event from beginning to end.
- 73 From the practice, the interviewer can also learn more about the child's use and understanding of vocabulary and adjust their own accordingly. The interviewer should also encourage the child to give an open-ended account (and detailed description). They should avoid questions that will prompt brief one-word answers as much as possible, to set the form of the substantive phase of the interview.

⁶ The Scottish Executive has examined the issue of competency and truth telling, particularly as it pertains to vulnerable witnesses. The Vulnerable Witnesses (Scotland) Bill provides for the abolition of the competence test.

- 74 Even in cases where the child is already familiar with the interviewer(s) through previous contact, time should be taken for fresh rapport building before commencing the interview. How long is spent on this phase is up to the discretion and common sense of the interviewers.

TECHNIQUES FOR BUILDING RAPPORT: A PRACTICE INTERVIEW

- Ask the child to identify a favourite topic or event, e.g. television programme
- Use open-ended questions to get details: Who?, What?, Where?, When?, How?
- Ask the child to describe their feelings, sounds, smells, tastes
- Use open-ended prompts to encourage the child to keep talking: "Tell me more"

Raising topic of concern

- 75 The interviewer should now remind the child of the ground rules and move on to raising the topic of concern. This should be done in a way that encourages the child to spontaneously come up with information, a way that is free from suggestive influence. So, for example, a good opener would be, "Now, it's time to talk about something else, the reason you are here today. Do you know why you are here today?"

A **bad** opener would be,

"I hear you've been having problems with Uncle Johnny, is that right?"

- 76 Not all children will be able or willing to respond with relevant information to general prompts (especially when the initial allegation has come from a source other than the child), so interviewers may have to progress to more specific ones. A "hierarchy" of prompts can be found in the protocol in APPENDIX A of this document.

Free narrative

- 77 Free narrative is the most reliable source of accurate and untainted information provided the child has not been subject to interviewer bias in earlier interviews. A free narrative is the child's own uninterrupted account of what has taken place. Professionals will know from the literature and from experience that, due to their developmental stage, younger children may be less likely to spontaneously provide information than older children and adults. Interviewers should always provide children, of *all* ages, with sufficient opportunity to describe their version of events, *in their own words*.

- 78 There are several ways of obtaining this free narrative. For example, when the child mentions the topic of concern, the interviewer can simply ask, “Tell me *everything* you can about that”.
- 79 Interviewers should resist “jumping in” to clarify any comments or follow up evidentially relevant statements with focused questions at this stage of the interview. Instead, interviewers should adopt the position of an active listener – that is, let the child know that the interviewer hears what the child is saying and is taking it seriously.
- 80 If the child begins to falter, the interviewer should be patient and allow for pauses. If it is clear that the child has finished, the interviewer can use a number of strategies (see *Facilitative Prompts* below).

FACILITATIVE PROMPTS

- A neutral acknowledgement (“uh huh”)
 - Repeat back the child’s last comment (*Child*: “And then we went into the bedroom...” (Pause) *Interviewer*: “I see, so you went into the bedroom”)
 - A “Tell me more” prompt
 - A “Then what?” prompt
- 81 If the child is pained to speak about the topic then reassure them (“It’s alright. Take your time, I’m listening” or “Is there something that would make it easier for you to talk with me today?”). Interviewers can be sympathetic but not too personal – avoid using terms of endearment (e.g. “dear”, “sweetheart”) and initiating physical contact (e.g. leaning over and hugging a child).
- 82 All personnel present at the interview should ensure that verbal reinforcement is given sporadically and is not contingent on a given response. Never offer the child any form of bribe (e.g. “If you just tell me what he did you can go home”).⁷

⁷ If the child has not disclosed any information regarding the alleged incident, either spontaneously or after prompting (using the recommended prompts and facilitators), interviewers should jointly consider whether to continue the interview further. Decisions made at the planning phase should be referred back to. The child may not be ready to speak yet, but it may also be the case that no actual incident has taken place. If, in the light of information obtained (or not) during the interview and the strength of the original referral, the interviewers decide it is in the best interests of the child and justice to terminate the interview here, **they should then proceed to the Closure Phase**.

Questioning

83 Even when the child has provided a fairly substantial account of the event(s) from free narrative, it may be necessary to expand what has been said so far, or to clarify ambiguities, with questions. Questioning should ideally be built around what the child has said in the free narrative. Points to consider include the:

- style of questions
- content of questions.

Style of questions

84 Questions can be posed in several ways. Interviewers should always aim to phrase questions in a way that will produce the most detailed response, and is least likely to influence the child's answer in a particular direction.

85 The four main types of question are:

- Open-ended
- Specific
- Closed
- Leading

86 This can be seen as a hierarchy of interview questions, from most preferable down to least preferable, yet interviewers should always strive to return to free narrative (or open-ended questions) as much as possible throughout the interview.

Open-ended questions

87 Open-ended questions are questions phrased in such a way that they invite a more detailed response and do not lead or pressurise the child into giving a particular answer. Research shows this form of question can yield up to 3-4 times longer responses from children.

Example: "You said earlier that you and this man played a game. Please tell me everything you can remember about that".

88 Not only do open-ended questions result in more detailed responses, the evidence obtained in this way is least likely to be challenged in court. The other advantage of open-ended questions is that they serve to give children control over what they want to divulge.

Specific questions

89 Specific questions probe for clarification or a more precise account of the event(s) the child has *previously mentioned*.

Example: "Where were you when you played this game?"

- 90 Such “wh-” questions can be useful. Care must be taken with “why” and “how” questions, however, as these can sometimes unintentionally imply blame (e.g. “Why didn’t you call out for help?” or “How come you never told anyone this before?”). “Why” questions can also pose problems because they often require a sophisticated understanding of the motivation or reasoning behind an outcome or behaviour.
- 91 If a child’s initial response to a specific question is deemed incomplete, interviewers can pose the question again but in a different form. Persistently repeating a question is not advisable as the child may come to believe their first answer was wrong, and consequently alter their response to something they think the interviewer wants to hear.
- 92 Where it has become clear that there were multiple incidents of abuse, specific questions can be used to identify and explore individual episodes. A useful technique here is to turn the child’s attention to the first or last incident of abuse (these episodes are most likely to stand out in the child’s mind as distinct events) and ask the child to describe it fully from beginning to end. Once marked, this incident can be given a unique label and then be used as a reference point for accessing memories of other (subsequent/prior) incidents (see APPENDIX A for examples). Interviewers should note that this technique might not be so beneficial with very young children. Their understanding of temporal terms such as “the first time”, “the last time” is often limited at this stage of development.

BENEFITS OF OPEN-ENDED QUESTIONS

1. Responses to open-ended questions are more accurate than responses to specific questions. This is assuming the child has not been previously subjected to multiple interviews involving persistent and erroneous suggestions.
2. A child may attempt to answer a specific question even when they do not have the details requested.
3. A child who does not understand a question can use all sorts of cover up – repeating back phrases used by an interviewer, giving a stereotypical answer, providing a yes answer because that is what they think the interviewer wants.
4. Specific questions do not allow the child to collect their thoughts; it takes time to search memory.

Closed questions

- 93 Closed questions provide the child with only a limited number of response options, usually “yes”, “no” or “don’t know”. When used inappropriately, such questions tend to yield *less* accurate information.

Example: “Was anyone else in the house when this happened?”

- 94 Children are less likely to say “I don’t know” to a closed question and more likely to guess or be misled by the interviewer. Thus, interviewers must take care if using closed questions and should always remember to follow immediately with *open-ended* questions for a spontaneous provision of information.

Leading questions

- 95 A leading question is one which is presented in such a way that it suggests a certain answer to the child or one which makes assumptions about facts yet to be confirmed.

Example: “So then he touched you, didn’t he?”

- 96 Whether a question is construed as leading or not depends on a number of factors: e.g. the nature of the question; whether the child has already mentioned, for the above example, any physical contact or not; the tone of the interviewer’s voice when asking the question and so on.
- 97 It may be more useful to draw a distinction, and create two categories: “leading” and “misleading” questions. The former can lead a child to give a correct response whereas the latter leads a child to give an incorrect response. To return to the above example, if the child had actually been touched then an affirmative response would be a true response. However, if no physical contact had taken place yet the child gave an affirmative response, the nature of questioning could be directed away from true events. Note the previous reference to confirmation bias (*paragraph 30 Number and duration of interviews*). The danger of such questioning is that interviewers rarely know the answer, therefore cannot be sure whether they have asked a leading or misleading question.
- 98 A misleading question can also be based on an incorrect interpretation/reiteration of what the child has said. An example would be where a child mentions getting into a blue car with a stranger and the interviewer then asks, “Tell me more about this *green car*”, to which the child responds with a fuller description. Such questioning might jeopardise the credibility of the child’s statement.
- 99 Despite the dangers, leading questions continue to be used during investigative interviews. A leading question that is based on something a child said during a free narrative report may be OK. A response to a leading question based on an interviewer’s hunch is not to be trusted. Leading questions, if ever used during an interview, should be immediately followed with an open-ended prompt to get a free response. Out of the four main question types, leading questions are most likely to be challenged in court. Thus, any use of this type of question should be well thought out, planned and justified.

Content of questions

100 Interviewers should aim to keep questions as unambiguous, simple and as short as possible. They should avoid the following:

- Double negatives: “Don’t you remember whether you said no or not?”
- Multiple propositions: “Did you think that you would get into trouble if you didn’t go along with it, or did you think that it was a cool thing to do, because you were told that all the other boys had done it?”
- Very long questions
- Questions containing legal jargon
- Abstract or hypothetical questions: “Do you think this would still have happened if...?”

SOME (DEVELOPMENTALLY) TROUBLESOME CONCEPTS FOR CHILDREN, WITH POSSIBLE SOLUTIONS

- “behind”, “in front of”, “beneath”, “above”
 - Might need to ask child to demonstrate what they mean.
- Dates and times
 - Can use memorable or routine events as reference markers such as birthday, school or television schedules (thus can pin-point the event to a particular month, week, day, or even time of day)
- Estimates of length, height and weight
 - Can be specified relative to another object or person familiar to the child
- Estimates of age
 - Again, can be specified relative to another person the child knows
- Frequency of events
 - Young children may have trouble estimating frequency; specific examples may help
- Use of “he”, “she” and “they”
 - Better to say the person(s) specific name(s)
- “anything”
 - Better to say “all” or “everything”
- When there is a change of topic
 - To reduce confusion or misunderstandings, signal change with a phrase such as “I’d now like to go on to talk about something else...”
- Passive voice
 - Better to use the active voice, e.g. “*Person X* hit *Person Y*” rather than “*Person Y* was hit by *Person X*”

- 101 Some of the child's own use of vocabulary may cause problems for the interviewer. Young children often *over-* and *under extend* the meaning of words. That is, they may use the term "private parts" to encompass body parts other than the genitals which are also usually covered under clothing (e.g. knees), or deny being touched but later admit to having been kissed as they consider touching to involve the hands.
- 102 Imprecise biological terms (e.g. "front bottom") will need to be explained – for crimes such as rape in Scot's Law, the interviewer will need to know *exactly* what parts of anatomy were involved. Moreover, if a child uses certain sexual terms during their statement, the interviewer cannot assume that the child fully understands them. The child might simply have overheard adults using them or come across them in magazines, without ever finding out their true meaning. Where there is ambiguity, the interviewer should gently ask for clarification.
- Note:** Demonstrations of body parts involved in sexual acts should be made on an anatomical diagram for example, *not* on the child's or the interviewer's body. However, children may *spontaneously* point to their body. Where this happens, the child should then be asked to confirm the location by pointing to it on the diagram.
- 103 Clarification is also important when a child's statement contains fantastical or bizarre elements, e.g. the mention of "glue" during a sexual act. Interviewers should ask, "Where did the glue come from?" It is not unknown for bizarre elements to turn out to be quite rational, e.g. "glue" meaning semen.
- 104 It should be highlighted that children sometimes reveal new and different information across statements and interviews. ***It is important to bear in mind that differences are not necessarily inaccuracies.*** Where the differences are inconsistencies, then these should be probed after the child has finished their free narrative and interviewers must take care not to imply that the child is lying.

Closure phase

- 105 It is essential to end every interview properly with a closure phase, even if an interview has had to be terminated prematurely or no disclosure has been made. The following features should be included:
- The lead interviewer should summarise (using the child's language as much as possible) the important evidential points in the child's statement, confirming that those aspects have been understood correctly.
 - The lead interviewer should check with the second interviewer whether any additional questions or clarifications are required.
 - The child should be asked if they have any questions they want answered, or something else which they wish to add.

- The child should be informed of what, if anything, will happen next, e.g. the likelihood of a further interview. Explanations should be honest and realistic but appropriate for the child's age and level of understanding. Commonly asked questions include "Will [the alleged offender] go to prison?" Interviewers should be prepared to answer such questions but avoid making promises that cannot be kept.
- The child and/or their guardian should be provided with a contact name and number plus advice on where they can seek help. This should include a contact from the police or social work but some children and/or their families may also need further support from voluntary agencies or professional counsellors or therapists.⁸
- Interviewers should thank the child for their time and effort – but take care not to thank the child for disclosure – and show that they have taken the child's account seriously.
- Interviewers should inform the child of the possibility of further interviews.
- Finally, children should be given time to compose themselves. The main aim of closure is that the child leaves the interview in a positive frame of mind, not distressed. Neutral topics, such as those covered in the Rapport Phase, can be discussed in order to help achieve this state.

106 As a reminder, no child should ever be made to feel that they have failed or disappointed the interviewers if they do not impart any details of evidential value during the interview.

10 COMMON INTERVIEWER ERRORS

1. Not explaining interview purpose
2. Not explaining "ground rules"
3. Not establishing rapport
4. Not asking for free narrative
5. Relying on closed questions and not asking open-ended ones
6. Asking "faulty" questions
7. Not following up what the child has just said
8. Not allowing for pauses
9. Interrupting a child when they are speaking
10. Not closing the interview

⁸ The Scottish Executive published a draft Code of Practice on the Provision of Therapy to Child Witnesses prior to Criminal Trials and Children's Hearings Court Proceedings as part of the Child Witness Support Consultation Document 2002. A final Code of Practice will be published, and in the mean time child protection practitioners might wish to refer to that draft or consult the guidance produced by the Home Office, Provision of Therapy for Child Witnesses Prior to a Criminal Trial: Practical Guidance (2001).

Debriefing and further interviews

107 Once the interview and an agreed joint record of its proceedings has been completed, a debriefing session should be arranged between the interviewers and the Senior Social Worker and/or Police Supervisor overseeing the investigation. The debriefing session is an important part of the process of joint planning and management of child protection enquiries. The findings from the interview and any further action can be discussed and decided upon. This may include the need for another interview and/or arrangements for a medical examination. The debriefing session can also provide an opportunity to identify operational and practice issues that require to be addressed externally to the enquiry (e.g. training needs, procedural gaps, etc.). As with the planning meeting, a record of the debriefing session and all decisions made should be taken and copies kept by both agencies.

108 Although the joint approach advocated here aims to reduce the number of times a child is interviewed, there are several reasons why further interviews may be necessary:

- when a child who did not disclose for whatever reason in the initial interview is now willing and able to disclose;
- when new information comes to light from sources other than the child;
- when, in the course of the initial interview, new allegations emerge (therefore, wider implications) and extra time is needed to investigate them fully;
- when the child and interviewers have not built up a good rapport;
- when the interviewer has not yet gained the child's trust;
- when the child is currently too distressed to talk.

109 When such circumstances arise, the different agencies should decide whether conducting another interview would be in the best interests of the child.

110 The "one interview" rule is not set in stone, but interviewers should question whether more interviews are necessary and appropriate. The guidance set out here should be followed each time an interview with a child is conducted.

Props

111 Anatomical diagrams can be useful in certain circumstances where a child needs to demonstrate an action or body part to clarify something they said (children should never be asked to use their own bodies to demonstrate such things).

- 112 Research raises several concerns about the reliability of evidence gathered with the use of anatomically-correct dolls during investigative interviews with children, especially very young children. Toys and other props should *not* be used during the information gathering phase of an investigative interview. Props should never be used in conjunction with leading questions nor should their use be instigated by the interviewer. Research (e.g. Bruck *et al.*, 1995; Stewart & Stewart, (1996) shows dolls and toys used in this way may increase inaccuracies especially in younger children.
- 113 It is acceptable for children to hold on to items that they themselves have brought along to the interview as comforters, e.g. “safety” blanket. This also includes dolls or stuffed animals but interviewers should not use these as props nor try to interpret the child’s behaviour with the toy in the context of their evidence.
- 114 Along with all props, any drawings made during, or brought along to, the interview should be recorded in the interviewer’s notes. Particular reference should be made to when and how the prop/drawing was introduced and how it was used. At the end of the interview, any drawings should be signed and dated on the reverse side by both interviewers and retained by the police as productions.

Other interviewing techniques

- 115 The procedures and protocol set out in this guidance are not the only methods available for interviewing child witnesses. Other established methods of interviewing, e.g. the Cognitive Interview, can be very effective at eliciting accurate and detailed responses in an investigative context. However, to apply these techniques requires a great deal of skill and practice. If they are used without sufficient training they can increase inaccuracies.

PART FIVE

SPECIAL NEEDS

SUPPORT

SPECIAL NEEDS

This is an addendum to the guidance set out in parts 3 and 4.

- 116 During the pre-interview planning phase any special needs should be identified. These may result from disabilities, sensory impairments or illnesses. These special needs should have been highlighted through preliminary checks with health professionals at the referral stage and where appropriate should be further clarified by contacting those professionals working directly with the child and family, e.g. the primary health care team, education professionals, community paediatrician, child psychiatrist, psychologist or therapists.
- 117 Special needs may also pertain to very young children, those with first languages other than English, and ethnicity.
- 118 This part of the guidance does not seek to cover all the circumstances or factors which may arise in connection with special needs. Instead, it focuses on issues around interviewing.

Disabilities and illnesses

- 119 Disabilities and illnesses vary widely in terms of type of impairment (e.g. physical, sensory, learning, social, communication), severity, and so on therefore interviewers should usually seek specialist advice from teams familiar with that specific disability and child and family. These people can advise on how to tailor the interview – including the physical setting – to the child’s particular needs to make the experience as suitable and as comfortable as possible for all involved. *Contact a Family*,⁹ a UK charity, is one source which can provide support, advice and information on a variety of disabilities, disorders, and further contacts, which professionals might find invaluable.
- 120 More time will be needed during the planning phase to gather and assess information from all relevant sources. If a need for a facilitator/intermediary is identified, additional time will have to be set aside to ensure they are clearly briefed about their role and remit for the interview. This will require some flexible scheduling, not only for planning meetings but also for the interview itself.
- 121 When looking at the child’s disabilities, the focus should always be: “So what are their *abilities*?” Even if the child cannot communicate through the usual communication channels, this should not prevent investigative agencies from attempting to obtain their account of the event (i.e. the child should not be automatically excluded from the investigative process).

⁹ Contact a Family, 209-211 City Road, London EC1V 1JN. Telephone 020 7608 8700.

122 Planning interview for a child with special needs:

- Ideally, the facilitator/intermediary should be independent of the child (e.g. not a family member or another witness. However, in some cases, for instance with a very young child with an impairment, sometimes the only person with whom the child will, and can, communicate successfully is the person to whom they are closest and with whom they are most familiar, i.e. a parent) and have adequate training. They should be clear as to their interview role.
- If communication boards or signing are to be used, interviewers should ensure that they can provide the appropriate vocabulary that the investigative team may need to use.
- The interview room should take place in a suitable setting – i.e. one able to accommodate any equipment (e.g. a wheelchair), free from distractions and noise, have good lighting, etc. Seating arrangements should accommodate the needs of the child.
- The facilitator/intermediary should be introduced to the child and take full part in rapport building. However, the child should be made aware that the police officer or social worker is the lead interviewer and that all responses should be directed towards them, not the facilitator/intermediary.
- Instructions may have to be broken down into smaller points and the length of questions should also be adjusted accordingly.
- Children with learning difficulties may not always respond to open-ended questions. That being the case, begin with a specific question and then follow it with an open question. Interviewers should still take care to avoid leading the child or influencing their responses.
- With certain conditions, e.g. deafness, children may struggle with abstract concepts (including “trust”, “yesterday”, “tomorrow”, “hot”, “cold”, “soft”) therefore the investigative team will need to consider carefully how to frame questions.
- Children with special needs may have a shorter attention span, require more breaks and shorter sessions.

Very young children

- 123 Many of the points that apply to children with special needs may be relevant when interviewing very young children. Additional considerations for this group include the fact that very young children can be very attached to familiar figures such as a parent. They can be distrustful of strangers and become distressed or avoid contact when left alone in rooms with unfamiliar adults. Unfamiliar surroundings can heighten their distress. Furthermore, pre-schoolers are more used to interacting with adults in play situations rather than serious formal sessions so, again, building rapport will be essential and more time may be needed when explaining the conventions of the investigative interview.

When the child's first language is not English

- 124 A child should, wherever possible, be interviewed in their first language (or, if bilingual, the one of their preference). Only in special circumstances, i.e. where an interpreter is not available and there is an immediate need to talk to the child, should an exception be made. Interviewers should be aware that some children who use English everyday, for example at school, may revert to using their native language for certain terms, e.g. parts of the body.
- 125 If an interpreter is required, then they should be someone independent of the child's family and community. They should be fully briefed as to their role and remit during the interview and to the principles of the phased interview. The interpreter should also have an understanding of the child's cultural context as well as being able to speak the language. Further they should be approved for court use and be suitably vetted.
- 126 The interpreter should be fully aware that they must translate exactly the interviewer's questions and the child's responses. They should avoid making inferences. Moreover, interpreters should not add in or omit anything; just report what has been said.
- 127 If the child has any preferences regarding the interpreter's gender or ethnicity, these should be respected and accommodated wherever possible. This applies for all interview personnel (and also any forensic medical examinations).

Ethnicity

- 128 There may be certain barriers to communication other than language. Some children from asylum-seeking families, for example, may have had negative experiences with the authorities dealing with their application (e.g. discrimination, racism, etc.) and may therefore be mistrustful of professional interviewers. Such issues should be treated with due care and consideration.

129 When interviewing children from different backgrounds and heritage, interviewers might encounter beliefs and values that are different to their own. However, interviewers should never impose any ethnocentric attitudes during an interview. The child's culture and customs must always be respected. The following are some points to consider:

- Certain rituals or customs might affect the scheduling of the interview (e.g. prayer times, holy days, fasting).
- Behaviour towards authority figures can vary from culture to culture. In some cultures it is inappropriate for a child to question anything an authority figure says. In this situation, it is essential that the interviewer makes clear the ground rules described earlier (e.g. where the child should correct the interviewer if they make a mistake).
- Beliefs and practices regarding child rearing can also vary from culture to culture. Interviewers should respect that and avoid passing judgement.
- The issue of shame can be a major determinant of how co-operative the child and their family are with regards the investigation (a child disclosing allegations of abuse might fear retribution from their family and the community).

When the child witness becomes a suspect

130 In the course of the investigative interview, the child may impart some information that implicates them in the commission of a criminal offence. If the interviewers conclude that the child has become a suspect, and not just a victim or witness, the interview may be terminated. This should not happen abruptly but once the child has finished any statement they wish to make. Interviewers should always remember to end with Closure.

131 In such circumstances, a further interview will normally be conducted relating to the child's involvement in the newly emerged criminal offence, following established police procedures.

132 It is impossible to know exactly how an interview will unfold. Nevertheless, it is wise to anticipate such outcomes in the Planning Phase, and interviewers should attempt to have contingency plans prepared. The balance between the child's needs and welfare and that of justice must still be borne in mind. If the child's account as a victim/witness is considered the main priority and the interview is to continue, it should proceed in accordance with this guidance.

PART SIX

FURTHER READING AND REFERENCES

SUPPORTING
LEARNING

FURTHER READING AND REFERENCES

The guidance set out in this document is based on extensive psychological research as well as studies of actual investigative interviews. The practices and principles mirror those set out in current training guidelines for professionals who interview children throughout Western Europe and North America. Below is a list of texts where one can find up-to-date reviews of the literature. This list also contains the research cited in this document:

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APPENDICES

APPENDICES A AND B

Appendices A and B provide sample protocols that can be modified to suit the needs of the child you will be interviewing. Current research indicates that interviewers find a *highly structured interview protocol* easiest to use and most effective.

SUPPORT

APPENDIX A

Protocol example. Interviewers can modify according to the particular child's needs. Protocols should be age appropriate.

Introduction

[Lead interviewer:] "Hello [child's name], my name is _____. I am a police officer/social worker/etc. Part of my job is to listen to children and youths about things that may have happened to them, to give them a chance to describe any worries they may have".

[Second interviewer introduces him or herself too]

[Second interviewer:] "I will be writing things down today, because what you say here is important and I want to be sure I remember it properly."

[Obtain consent if haven't already done so. Also, answer any spontaneous questions the child asks at this point.]

Ground rules

"Before we begin, there are some things I want to go over with you."

"Firstly, I am here mainly to listen. I'll be asking you to tell me about things that have happened to you but this is *your* chance to do most of the talking."

(Pause)

"I don't know what happened, I wasn't there, so I'll need you to help me understand everything. Even if you think I already know something, you should still tell me. Have I explained that properly?"

(Pause)

"Now, I might ask some questions that you don't know the answers to. That's OK. This isn't like school – you know if a teacher asks you a question and you say you don't know, what does your teacher say to you?"

(Child: "They say I should try or guess the answer.")

"Well I don't expect you to know all the answers. If you don't know, just say "I don't know". Let's practice that. If I say, 'What day is *my* birthday?' you should say..."

(Wait for child's response)

"That's right. Also, if you don't remember the answer to something, it's OK to say, 'I don't remember'."

"Now, I might ask you some questions today which you don't understand or seem a bit 'strange'. I'll try not to, but if I do, I want you to say, 'I don't understand'. Then I can try to put it another way. So, if I say, 'How many wegs are in a wug?' you should say..."

(Wait for child's response)

"That's right. You should not try to guess the answers. If a question doesn't make sense, just tell me. Also if I make a mistake, or get something wrong, I want you to tell me. For example, if I say, 'So do you like being 7 years old?' you should say, 'I'm not 7 years old, I'm 5 years old' because that is how old you really are. Let's practice with another example. If I say your daddy is called X, you should say..."

(Wait for child's response)

"Yes, your daddy is really called Y. Always correct me if I say something wrong".

"Now, I might ask you the same question more than once today. Or, I might ask you a question that someone else has already asked you. That doesn't mean that you gave the wrong answer the first time. It's just to help me remember what has been said. So if I do ask a question again, just tell me the truth, because that is very important".

(Pause)

"I want you to tell me the truth. Not what someone else has *told* you to say. I don't want you to make anything up. Only tell me what *really* happened to you – what you saw with *your* own eyes, what you heard with *your* own ears, smelled with *your* own nose, and tasted with *your* own mouth. Will you do that?"

Practising free narrative

"So far, I've done a lot of talking. But from now on today, *you* shall be doing most of the talking. Why don't you tell me a bit about yourself and your family."

(Wait for child's response)

"And what else can you tell me about your family?"

(Wait for response)

"What do you enjoy doing?" (*Child: "Watching television".*) "Tell me all about your favourite television programme."

(Wait for response)

“Not long ago, we celebrated an event called _____ [e.g. Christmas]. Tell me how you celebrated [the event]”.

(Wait for response)

“What else can you tell me about [the event]?”

(Wait for response)

“Think again about [the event]. I would like you to tell me everything that happened, from when you got up that morning right through until when you went to bed that night.”

[If the child only speaks briefly then prompt with, “And then what happened?”. Also, probe for details of each item mentioned by the child. For example if the child says, “We opened presents” then say, “Tell me everything that you can remember, every detail, about you opening your presents.”]

(Wait for response. Then to conclude...)

“Wow, it sounds like you had a great [event]!”

Raising topic of concern

[Provide quick reminder of ground rules]

“Now, it’s time to talk about something else, the reason you are here today. Do you know why you are here today?”

[If the child refers to, or makes, an allegation then repeat that allegation and ask the child to expand on it with more detail:]

“OK, so [briefly summarise the main offence/problem that the child has just disclosed]. I want you to tell me *everything* that happened; from the very beginning to the very end, as best you can remember.”

[On the other hand, if the first request does not elicit any relevant response then proceed through the hierarchy of prompts below:]

“Tell me why you are here today”;

“I heard you said something to your teacher/friend/mummy last week. Tell me everything you can about that”;

“As I told you, my job is to talk to children about things which may be troubling them. It is very important I understand if anything is troubling you. Tell me why you think [the carer] has brought you here today.”

Free narrative

[When the child does refer to the allegation, encourage them to give a free narrative using appropriate open-ended questions, follow-ups and prompts when the child stops]

e.g. "Tell me everything you can about that", "Then what happened?", "uh huh", "go on", "You said _____. Can you tell me more about that, please?"

Questioning

[Once it is clear that the child has finished their free narrative, establish whether the event described was a one-off or a repeated event:]

"Did that happen one time or more than one time?"

[If the child replies, "one time" then draw the child's attention back to a particular salient detail that they talked about. Refer to that, and other details where necessary, to obtain a fuller account/clarification]

"You said earlier that _____. Please tell me/explain/describe..."

[If the child says it happened more than once:]

"Think back to: the time you remember best/the first time/the last time. I want to understand what happened, from the very beginning to the very end."

[After the child has finished talking about event no. 1, continue with open-ended prompts, e.g. "And then what happened?", "What else can you tell me about that?". Once the child has finished talking about that incident, ask about other salient ones and try to obtain as much detail about each]

[Finally, ask, "Is there another time you remember well? Tell me about that time, from the very beginning to the very end", using the prompts above to elicit additional information]

[If more evidentially important details are required from the child, e.g. about the offender's appearance, then probe for them at this stage with specific "Wh-" questions wherever possible.]

e.g. "What did the man look like?" [Wait for response then follow-up with]
"Tell me more about this man, everything you can remember."

Closure

[After summarising the main points of the child's statement and having conferred with the second interviewer, ask:]

"Is there something else I should know?"

(Wait for response)

"Is there something else you want to tell me?"

(Wait for response)

"Do *you* have any questions you'd like to ask me?"

(Wait for response)

[After this discussion, provide the child with contact names/addresses/numbers. Then say:]

"Thank you for taking the time to talk to us today, _____. I'm going to take you back to [your mum/dad/other person] in just a minute. What are you going to do once the interview is over?"

(Wait for response)

[If the child says for example that they are going to go home, ask:]

e.g. "Are you going to watch some TV?" or "Are you going to have something to eat?"

(Wait for response)

"What is your favourite TV programme/food?" [and so on until the child is calm and relaxed and ready to leave]

APPENDIX B

Quick Guide: Conducting the investigative interview

1. Prepare the interview setting

- ensure there will be no interruptions (e.g. unplug telephones)
- remove any distracting material
- ensure adequate seating and equipment are available and laid out in a “child-friendly” arrangement

2. Introductions

- introduce yourself to the child, giving name, occupation and role (in a general way; don't mention words such as “risk” and “child protection”)
- explain that the interview will be recorded
- obtain child's consent to interview, if have not already done so
- allow child to settle; have brief “icebreaker” chat about neutral event (e.g. journey there)
- *avoid mentioning the allegation and avoid instilling any stereotypes about the alleged perpetrator*

3. Establish the ground rules

- the child will do most of the talking
- the interviewer wasn't there so needs the child's help to understand what happened
- it is OK to say “I don't know/remember/understand” and to correct the interviewer when they get something wrong
- the child should not guess, or make up any answers. They should always tell the truth (i.e. what they know from having seen with their own eyes, heard with their own ears, etc.)
- if questions are repeated this does not mean the child's first answer was wrong or thought to be a lie

4. Reminders for interviewer

- the interview should follow the child's pace
- be tolerant of pauses; don't interrupt the child
- be aware of signs of fatigue or loss of concentration. Let the child know how long the interview might take and when breaks will be available
- *keep an open mind*

5. Complete rapport building with a practice interview

- ask the child to recall a neutral personally-experienced event (e.g. a holiday)
- tell them to report everything they remember about the event from beginning to end
- avoid specific questions
- encourage a spontaneous narrative from the child using facilitators, e.g. "That sounds interesting, tell me more."

6. Raising topic of concern

- just before starting, reiterate the ground rules
- then raise the topic, beginning with the least suggestive prompt
- if this is not successful, proceed gradually onto more specific prompts
- *avoid suggesting any wrongdoing (e.g. by using words such as "hurt", "bad")*

7. Free narrative

- encourage a spontaneous account from the child using general probes, e.g. "Tell me everything you can about that."
- use open-ended prompts to follow when the child has finished speaking, e.g. "And then what happened?"
- also use facilitators to keep the narrative flowing, e.g. "uh huh", "so [repeat what the child has just said]".

8. Questioning

- refer back to things that the child has mentioned previously in free narrative
- try to determine whether the episode of abuse was single or repeated
- try to cover the sequence of topics in the same order as the child raised them
- use the least direct/specific types of questions wherever possible
- clarify any ambiguities, inconsistencies, or unfamiliar terms/names used by the child, in a way that does not imply suspicion, disbelief or mockery

9. Closure

- summarise main evidential points using child's language as much as possible
- check whether second interviewer has any questions
- ask child if they have any questions
- don't make promises that cannot be kept
- provide contact names/addresses/numbers
- thank child for their time
- revert to neutral topics

APPENDIX C

Members of the steering group

Barbara Brown, Scottish Executive Justice Department

Gerry Brown, The Law Society of Scotland

Delina Cowell, Scottish Executive Justice Department (Secretary)

Dr Helen Hammond, Scottish Association of Community Child Health

Kathleen Harper, Crown Office and Procurator Fiscal Service

David Henderson, Scottish Executive Justice Department (Chair)

Lynn Hulse, Aberdeen University

Dr Adrian Margerison, Scottish Association for Community Child Health

Gerry McGeoch, Association of Directors of Social Work

Maggie Mellon, NCH Scotland

Dr Amina Memon, Aberdeen University

Jackie Robeson, Scottish Children's Reporter Administration

Detective Superintendent Graham Vance, Strathclyde Police

The following also attended some meetings of the group:

Catherine Brown, Scottish Executive Justice Department

Michael Clancy, The Law Society of Scotland

Sergeant Gordon Cummings, Strathclyde Police

Jim Hazlett, Association of Directors of Social Work

Assistant Chief Constable Graeme Pearson, Association of Chief Police Officers in Scotland

The contribution of all those involved in preparing this guidance is gratefully acknowledged.

WIDER PROGRAMME OF WORK ON VULNERABLE AND CHILD WITNESSES

The guidance set out in this document is part of a wider programme of work on victims, witnesses and the modernisation of the justice system. This chart sets out the wider programme and how it contributes to our aims and objectives for vulnerable and child witnesses.

Our Aim

To increase support and improve standards of treatment of vulnerable witnesses to help them participate in the legal process and give their best evidence.

The **Executive** is committed to:

- securing a criminal justice system that fully supports victims and witnesses
- reforming the courts and the legal system to deal with cases more efficiently.

It is widely accepted that children under 16 and other vulnerable witnesses find the current legal process intimidating and distressing.

The **Executive**:

- has introduced a Bill to enable better protection and assistance to be given to vulnerable witnesses, particularly children – it is also intended that the Bill will help to support the development of a culture within the justice system which enables children and other vulnerable witnesses to participate fully
- has issued a White Paper on proposals for implementing reform of the High Court in Scotland including legislation, which will be of benefit to vulnerable witnesses
- has implemented the Scottish Strategy for Victims, including establishing a Witness Service in Sheriff and High Courts and a Victim Information and Advice Service within the Crown Office and Procurator Fiscal Service
- co-ordinates the Child Witness Support Implementation Group to oversee the implementation of the recommendations of the Lord Advocate's Working Group on Child Witness Support.

Objectives

With regard to Vulnerable and Child Witnesses, these four key areas of work have commonly agreed objectives to:

- Improve information and support systems
- Improve case management and introduce greater certainty of time scales in sensitive cases
- Improve and increase the availability of special measures
- Improve the gathering and taking of evidence

Child Witnesses

For child witnesses, this includes:

Information and Support Systems	Case management	Special measures	Gathering evidence
Publication and distribution of information for child witnesses and parents or carers CW	Consistent inter-agency operational support of young witnesses CW	Automatic entitlement to special measures VV	Improve conduct of interviews and precognition with young witnesses CW
Victim Support services, 31 local services, overseen by Victim Support Scotland that provide support to victims of crime SSV	More thorough case preparation HCR	Supporter as a statutory special measure VV	Greater use of prior statements as main evidence VV
Witness Service. Delivered by Victim Support Scotland, it provides information and practical and emotional support to all witnesses in the Sheriff and High Court cases SSV	Active case management by the judge including mandatory preliminary hearings HCR	Availability of special measures for witnesses in civil proceedings VV	Reduce stress of young witnesses in relation to identification of accused CW
Victim Information and Advice SSV	Consideration of special measures and case management by the Judiciary CW	Streamlined notification procedure for special measures well in advance of trial VV	Dock identification unnecessary where witnesses have previously identified accused VV
Publication and dissemination of leaflets and launch of website. www.scottishvictimsofcrime.co.uk SSV	Good practice guidance for judges and sheriffs and revision of the Lord Justice General's Memorandum on the treatment of Child Witnesses by the Courts, 1990 CW	Children under 12 in criminal cases about sexual or violent matters to give evidence without having to come to court VV	Abolition of competence test VV
Clarify roles of those making decisions relating to therapy before court proceedings CW	Facilitate the prioritisation of cases with young witnesses CW		Improve standards of questioning children in court CW
Improve conduct of court familiarisation visits CW	Modernised time limits to avoid unnecessary adjournments HCR		Restrictions on use of evidence relating to a witness's character and sexual behaviour in children's hearing court proceedings VV
Refurbishment of court premises SSV	Greater certainty of trials including fixed diets HCR		Discretionary power in non-sexual offence cases to prevent accused conducting his own defence VV
Information on Vital Voices and the Vulnerable Witnesses (Scotland) Bill is on website www.scotland.gov.uk/vitalvoices VV	Information about young witnesses to inform decision making in the legal process CW		Questioning victims of sexual offences in court SSV
Establish inter-agency mechanisms for collection and publication of statistics on young witnesses and court proceedings CW			Use of expert evidence to provide information about behaviour of a witness VV

CW = Child Witness Support Implementation Group
SSV = Scottish Strategy for Victims

VV = Vital Voices (Vulnerable Witnesses (Scotland) Bill)
HCR = Lord Bonomy's Reform of the High Court

 Relates to this publication



Scottish Association for Community Child Health



FRAGILE
INTERVIEWING
SUPPORT
HELPING
ADVICE

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