



ACPO Position Statement: Interviewing Child Witnesses in Major Crime Investigations

**National Investigative Interviewing
Strategic Steering Group (NISSG)**

INTERVIEWING CHILD WITNESSES IN MAJOR CRIME INVESTIGATIONS

Introduction

Child witnesses feature in many major crime investigations. The purpose of this positional statement is to give bullet-point guidance to Senior Investigating Officers (SIOs) on the recommended approach to assessing and interviewing child witnesses. It is not a comprehensive guide and is not intended to replace a detailed interview strategy.

Background

A child witness is defined as being under 18 by Section 16 Youth Justice and Criminal Evidence Act 1999 (YJCEA) as amended by Section 98 Coroners and Justice Act 2009. All child witness are defined as 'vulnerable' and as such are eligible for special measures¹ by virtue of Part 2 YJCEA. Investigative interviews with child witnesses fall within the scope of *Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses, and Using Special Measures* (Ministry of Justice 2011).

The ACPO Position

Child Witness Welfare

SIOs should not to assume that an interview would be too distressing for a child. It is quite possible that children who have witnessed a horrific crime make excellent and robust witnesses. The decision whether to interview or not should be considered in light of all available information and the recommendations of a multi-agency strategy meeting if one is held. Where a multi-agency strategy endorses a decision to interview a child it will usually be conducted jointly by appropriately trained police officers and social workers.

Interview Adviser

As with all major crime enquiries it is recommended that an interview adviser is deployed to the investigation.

¹ Including recorded evidence in chief, giving evidence via TV link and giving evidence in private.

Each child witness, their respective standing in the enquiry, and their specific communication needs should be considered individually within the interview strategy for the investigation.² A child witness may also be a significant witness.

Multi-Agency Strategy Meetings

Whenever consideration is given to interviewing a child witness, contact should be made with Children's Social Services and the matter discussed. A multi-agency strategy meeting may be called by social services in order to assess any ongoing risk to the child.³ Whether a strategy meeting is held or not, a clear interview plan for the child must be recorded. It is often beneficial for the SIO to utilise local child protection officers in such situations, working at the direction of the SIO and in consultation with the interview adviser.⁴

Additional Communication Needs

Some children may have additional vulnerabilities. An intermediary should always be considered, prior to any interview taking place, if there are communication issues with the child, such as with very young children, or children with any mental or physical disorder or disability which affects their ability to communicate.⁵

Urgency

On occasions there may be significant investigative necessity for an early, if not immediate, approach to a child, especially in time-critical cases where the child's information can fuel fast track actions. In these circumstances there will not be time to hold a strategy meeting. In such cases the officers attending should ideally be child protection trained officers and be clearly briefed that a full investigative interview will follow in due course and that their immediate remit

² If the enquiry concerns the apparent organised abuse of numerous children by multiple suspects the local complex abuse protocols should be followed when approaching and interviewing potential victims and witnesses.

³ Strategy Meeting protocols are laid out in the government publication 'Working Together to Safeguard Children'. <http://www.education.gov.uk/publications/standard/publicationdetail/page1/DCSF-00305-2010>

⁴ Such strategy meetings are NOT confined to office hours only – all social services departments with a responsibility for child protection must provide a 24 hour duty service, seven days a week.

⁵ Special Measures within ABE specifically address these issues. See 1.9 of ABE 2007

is to capture the key information only, by means of question and answer, using appropriate open questions.⁶ The officers should seek the consent of the child's parent or guardian before the child is approached.⁷ Detailed notes of the location, time, date, who was present and exactly what was said must be recorded at the time.

Suggestibility

Children are especially vulnerable to suggestibility, and the SIO should be aware of contamination by either inappropriate questioning or by the influence of others. The logistics of interviewing several children and/or their carers who have witnessed the same event will need detailed planning so the risk of contamination can be minimized.

Consent

Where the witness is under 18⁸ the consideration should be given to the guidelines set out by Lord Fraser in *Gillick v West Norfolk and Wisbech AHA* [1985] 3 All ER 402. The effect of these guidelines is that a child can consent in their own right if they are capable of understanding the implications of being interviewed as witness⁹. If a child cannot understand these implications the consent of a parent or guardian is required. It is important to note that *Achieving Best Evidence* deals with the issue of informing a child's parents/guardians separately to consent: other than in wholly exceptional circumstances parents/guardians should be informed even where the child has the capacity to consent.

If parental consent is not forthcoming consideration may be given to obtaining an Emergency Protection Order that includes a direction in respect of interviewing under Section 44 Children Act 1989 provided that circumstances are such that the child may be at risk of 'significant harm' In situations where an

⁶ See 2.29 of ABE 2007 *Initial Contact with Child Witnesses*

⁷ However there will be limited occasions where it appropriate to approach the child without parental consent – see the section on Consent below.

⁸ The Mental Capacity Act 2005 also applies where the witness is over 16.

⁹ This is generally going to mean older children although each case must be judged on its own merits.

approach to the child without first obtaining parental consent is being considered, or where parental consent has, or is anticipated will be, declined then it is strongly recommended that a multi-agency strategy meeting with social services takes place.¹⁰

Further Interviews

It is permissible to conduct additional interviews with child witnesses, but this should only be done where the SIO considers significant further information will be of considerable benefit to the investigation without any detrimental effect to the witness. Consideration should be given to consulting the Crown Prosecution Service before conducting a further interview with a child witness.

Further Guidance

Further guidance can be obtained from your local interview adviser, Child Abuse Investigation Team supervisor, the ACPO Approved Interview advisor for your area or the National Vulnerable Witness Adviser for the NPJA Specialist Operations Centre.

Acknowledgement

This position statement was prepared by DS Jez Prior, an ACPO Approved Interview Adviser from Sussex Police.

In the event of any queries about this position statement please contact either Gary Shaw at gary.shaw@npja.pnn.police.uk or Kevin Smith at kev.smith@npja.pnn.police.uk

¹⁰ Local Authority Legal Services will usually apply to the court for such orders.