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DYFED-POWYS

Diogelu ein Cymuned - Safeguarding our Community

Investigative Interviewing Policy

Version 1.1 – March 2015

VERSION CONTROL

Version	Date	Author	Reason for Change
1	March 2013	DI Estelle Hopkin-Davies	Introduction of policy
1.1	March 2015	DI Estelle Hopkin-Davies	Review of Policy – no amendments made

EQUALITY IMPACT ASSESSMENT

Section 4 of the Equality Act 2010 sets out the **protected characteristics** that qualify for protection under the Act as follows: Age; Disability; Gender Reassignment; Marriage and Civil Partnership; Pregnancy and Maternity; Race; Religion or Belief; Sex; Sexual Orientation.

The **public sector equality duty** places a proactive legal requirement on public bodies to have regard, in the exercise of their functions, to the need to:

- eliminate discrimination, harassment, victimisation, and any other conduct that is unlawful under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The equality duty applies to all protected characteristics with the exception of Marriage and Civil Partnership, to which only the duty to have regard to the need to eliminate discrimination applies.

Carrying out an **equality impact assessment** involves systematically assessing the likely or actual effects of policies on people in respect of all the protected characteristics set out above.

An equality impact assessment should be carried out on any policy that is **relevant** to the public sector equality duty.

An equality impact assessment has been completed on this policy, click [here](#).

HUMAN RIGHTS ACT

CERTIFICATE OF COMPLIANCE

This policy has been drafted in accordance with the Human Rights Act and has been reviewed on the basis of its content and the supporting evidence and it is deemed compliant with that Act and the principles underpinning it.

Name: C Brettle, G.CILEx

Department: Legal and Compliance Directorate

Signed: C Brettle

Freedom of Information Act 2000

Section 19 of the Freedom of Information Act 2000 places a requirement upon the Force to publish all policies on the Force website. Policies are why we do things and procedures are how we do them. A case-by-case review of procedures must be undertaken to protect law enforcement and health and safety considerations. Where a combined policy and procedure document is being produced the Force is legally required to publish the policy section and assess the procedure part to ensure no sensitive information is published.

There is a requirement therefore to review this document to establish its suitability for publication. Please identify below whether the document is suitable for publication in its entirety or not. Where it is believed that disclosure will be harmful please articulate the harm that publication would cause and highlight the relevant sections within the document. Where it is perceived that there is harm in disclosure the document should be forwarded to the FOI Unit for review.

Suitability for publication

Suitability for publication	Yes/No	Date	Signature
Document is suitable for publication in its entirety	Yes	March 2014	DI Estelle Hopkin-Davies
Document is suitable for publication in part, I have identified those sections which I believe are not suitable for disclosure and have articulated below the harm which would be caused by publication.			
Harm – in publication			

FOI review – to be completed by FOI Unit

Suitability for publication	Yes/No	Date	FOI Decision Maker
Document is suitable for publication in its entirety	Yes	18.03.2014	Colin Matthews
Document is suitable for disclosure in part and relevant redactions have been applied. A public facing version has been created.	N/A	N/A	N/A
Once review has been undertaken FOI decision maker to return document to policy author and following sign-off document to be published within Force Publication Scheme. Any future changes to the document should be brought to the attention of the FOI Unit, as appropriate.			

Investigative Interviewing Policy

1. Policy Aim

This policy is required to ensure adherence to the Association of Chief Police Officers Approved Professional Practice (APP) guidance on interviewing victims, witnesses and suspects. It also takes into account the principles of Achieving Best Evidence (ABE) detailed within the Youth Justice and Criminal Evidence Act 1999. The aims are to:

- Implement the ACPO National Investigative Interviewing Strategy;
- Improve performance;
- Engage criminality;
- Narrow the Justice Gap;
- Provide guidance for the most suitable selection of interviewer on a case by case basis;
- Provide guidance on the management and supervision of investigative interviews;
- Provide guidance on the use of Interview Advisers for major crime investigations; and
- Provide practitioners, senior managers and Interview Advisers with operational procedures and guidance.

This policy is effective immediately. It applies to all police officers and police staff who are involved in any aspects of the interviewing process involving victims, witnesses or suspects.

2. Applicability

This policy applies to any person engaged in the interviewing of victims, witnesses or suspects.

3. Monitoring

This policy will be regularly monitored to consider:

- Its effectiveness;
- Any changes to legislation / ACPO Guidance;
- Challenges to the policy;
- Any identified inefficiencies in relation to implementation.

4. Review

This policy will be reviewed annually by the Force Interview Coordinator.

5. Who to Contact About this Policy

If you have any queries or wish to make any suggestions in relation to this policy, please contact Detective Inspector Estelle Hopkin-Davies.

Section 1

➤ General

This policy should be read in conjunction with the Association of Chief Police Officer Authorised Professional Practice (ACPO APP) website which can be access by the following link <http://www.app.college.police.uk> national guidance, legislation and the Dyfed-Powys Police Digital Interview Recording Operating Procedures.

➤ Structure for Investigative Interviewing

National Interview Coordinator

The National Crime Agency (NCA) has appointed two National Interview Coordinators who are able to provide a wide range of advice in relation to operational, training and policy issues. The National Interview Coordinators are assisted by a number of ACPO approved Interview Advisers. **At present the National Interview Coordinators are Mr Gary Shaw (suspect) and Mr Kevin Smith (witness). Both can be contacted through the National Crime Agency Specialist Operations Centre on 0845 000 5463.**

Regional Coordinator

Each ACPO region has appointed a coordinator for investigative interviewing who supports the Force Interviewing Champions within their region by promoting the National Investigative Interviewing Strategy and disseminating good practice.

Force Champion

The Force Interviewing Champion is responsible for promoting interviewing as a core police service competency. They are also responsible for overseeing the implementation and maintenance of the National Investigative Interviewing Strategy and supporting best practice.

Force Interview Coordinator

The Force Interview Coordinator's primary role is to advise and co-ordinate victim, witness and suspect interview strategies in relation to major crime. However, the officer is a Force resource available to provide advice and guidance in respect of serious crime or investigative interviewing in general.

The Interview Coordinator is responsible for:

- Assisting with the implementation of this policy.
- Promoting and disseminating best investigative interviewing practice throughout the Force.
- Maintaining a close working relationship with the department responsible for providing investigative training in order to provide advice where appropriate on investigative matters and identify and disseminate good practice.
- Ensuring investigative interviewing, procedural and legal requirements are met and provide a quality assurance role to investigative interviews as necessary.
- Providing reference, expert advice and guidance relating to investigative interviewing and acting as a link to external academics and other experts.
- Assisting with the implementation of the ACPO National Investigative Interviewing Strategy.
- Managing and deploying Interview Advisers.
- Mentoring Interview Advisers through to national accreditation.

Interview Adviser

The role of the Interview Adviser is to assist the Senior Investigating Officer (SIO) or Investigating Officer by managing and co-ordinating the interview process for serious, complex or major investigations. Deployment therefore should be at the discretion and subject to an

appropriate policy decision by the SIO. Any such deployment should however be made at the earliest opportunity in order to maximise the benefits to the investigation.

There are four main elements to the role:

1. Provide strategic advice on interview processes
2. Co-ordinate the interview processes
3. Monitor interview processes
4. Evaluate interview processes

The interview adviser should where required:

- Provide accurate and timely strategic advice to the Investigating Officer (IO) / SIO on all interview related matters.
- Set and implement interview strategies and develop interview plans.
- Co-ordinate the interviewing of several categories of witnesses.
- Evaluate information from material, statements and interviews.
- Determine location and resource requirements for interviews.
- Liaise and negotiate with custody officers, medical practitioners and legal advisers.
- Ensure interviewees are treated ethically.
- Co-ordinate the use of experts and specialists.
- Co-ordinate multi-site and multi-suspect interviews.
- Conduct remote monitoring of interviews.
- De-brief the interview process and provide accurate feedback to the IO / SIO
- Ensure all relevant documentation is completed accurately and submitted in accordance with Criminal Procedure and Investigations Act 1996.
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➤ **Training of Staff**

All staff should be trained in accordance with the recommendations found in the ACPO (2009) National Investigative Interviewing Strategy and relevant College of Policing (CoP) training products.

➤ **Workplace Assessment**

A key element in ensuring that the National Occupational Standards (NOS) are met in the workplace is the assessment of interviewing officers. Assessment of interviewing should be in line with the Professionalising Investigation Programme (PIP) Force Policy.

Section 2

➤ **Interviewing Witnesses**

It is essential to identify the correct category of witness prior to an interview taking place. Currently, witnesses are categorised as:

- Vulnerable witnesses
- Intimidated witnesses
- Significant witnesses
- Reluctant witnesses
- Hostile witnesses
- Defence witnesses

This policy will now consider each category separately. Full definitions of each category of witness can be found within Home Office (2011) *Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses*, and *Guidance on Using Special Measures*.

➤ **Vulnerable Witnesses (S. 16 Youth Justice and Criminal Evidence Act 1999)**

Interviewing Children Under 18

The law presumes that child witnesses under 18 will normally give their evidence outside the courtroom by playing a video-recorded interview as evidence-in-chief and cross-examination via live link unless this will not improve the quality of their evidence. But, subject to the agreement of the court, children may opt out of giving their evidence by either a video-recorded interview as evidence-in-chief or by means of live link or both.

For further guidance in relation to this subject see *Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses*, and *Guidance on Using Special Measures* (2011).

Selection of Interviewers

As a general rule, interviews with child witnesses in major crime cases or who have been subjected to violence, abduction, neglect and sexual assault should be conducted (wherever possible) by a PIP Level 2 (Specialist) Interviewer.

In other cases, child victims/witnesses can be interviewed by a Level 1 trained officer unless the quality of evidence is likely to be enhanced by a video interview. If this is the case, then an appropriately trained interviewer will conduct the visually recorded interview.

All contact with and decisions made in relation to the interview process for child witnesses must be recorded in the Dyfed-Powys Police Witness Interview Planning Booklet.

Interviewing Vulnerable Adults

Selection of Interviewers

Interviews with vulnerable adult witnesses should be conducted (wherever possible) by a PIP Level 2 (Specialist) Interviewer.

All contact with and decisions made in relation to the interview process for vulnerable adult witnesses must be recorded in the Dyfed-Powys Police Witness Interview Planning Booklet.

➤ **Intimidated Witnesses (S. 17 Youth Justice and Criminal Evidence Act 1999)**

Selection of Interviewers

Interviews with intimidated witnesses should be conducted (wherever possible) by a PIP Level 2 Interviewer.

In major investigations, (i.e. murder) interviews should be conducted (wherever possible) by a PIP Level 2 (Specialist) Interviewer.

All contact with and decisions made in relation to the interview process for intimidated witnesses must be recorded in the Dyfed-Powys Police Witness Interview Planning Booklet.

➤ **Significant Witnesses**

There is **no** statutory provision for video-recordings of interviews with significant witnesses to be played as evidence-in-chief, although interviewers should be aware that the defence might ask the court for permission to play some or all of the recording in support of their case.

As a guide, in Dyfed-Powys Police, Significant Witnesses will be designated for the following categories of major investigations in line with the need to appoint a nationally registered SIO:

- Murder/Attempted Murder
- Threat to Murder
- Manslaughter
- Infanticide
- Child Destruction
- Kidnapping
- Terrorist Related Crimes
- Robbery (with the use of a firearm)
- Causing Death by Dangerous Driving

Only the Senior Investigating Officer (SIO) can designate witnesses under this category.

While significant witnesses are usually defined with reference to indictable only offences, the SIO may consider designating witnesses as significant in any other serious case. A record should be made of the rationale underpinning it, including the criteria used for determining which interviewees were visually recorded.

Careful consideration must be given to the necessity to designate under this category, and must be in strict compliance with the definition. Significant Witnesses will (in most circumstances) form a very small, but crucial, number of the overall witnesses.

In circumstances where multiple witnesses are involved, it is important that the number of witnesses who are visually recorded be limited to a number that is likely to be manageable by the prosecution team. Such a decision should be made by the senior police officer in charge of the investigation, in consultation with the CPS where practical, and a record should be made of the rationale underpinning it, including the criteria used for determining which witnesses were visually recorded.

In cases where significant witnesses are also vulnerable and/or intimidated, they should be designated as such rather than significant if their evidence is likely to be maximised by special measures.

➤ **Presenting the Evidence of Significant Witnesses**

The National Investigative Interviewing Strategic Steering Group (2010) Advice on the Structure of Visually Recorded Witness Interviews suggests that Option 2 of ABE represents the preferred method for presentation of evidence for all significant witnesses. It is accepted, however, that there will be exceptional cases where it may be appropriate to produce a transcript of the video-

interview as an exhibit (Option 1 ABE). It is essential that the agreement of the CPS is obtained before this option is pursued. In Dyfed-Powys Police, as per guidelines, the MG11 should be prepared and presented to the witness as soon as practicable after the interview to minimise the effects of memory loss/contamination and to reduce the potential for unnecessary trauma.

Selection of Interviewers

Interviews with significant witnesses should be conducted (wherever possible) by a PIP Level 2 (Specialist) Interviewer.

All contact with and decisions made in relation to the interview process for significant witnesses must be recorded in the Dyfed-Powys Police Witness Interview Planning Booklet.

➤ **Reluctant Witnesses**

Selection of Interviewers

Interviews with reluctant witnesses should be conducted (wherever possible) by a PIP Level 2 Interviewer.

In major investigations (e.g. murder), interviews should be conducted (wherever possible) by a PIP Level 2 (Specialist) Interviewer.

All contact with and decisions made in relation to the interview process for reluctant witnesses must be recorded in the Dyfed-Powys Police Witness Interview Planning Booklet.

➤ **Hostile Witnesses**

Selection of Interviewers

Interviews with hostile witnesses should be conducted (wherever possible) by a PIP Level 2 Interviewer.

In major investigations (e.g. murder), interviews should be conducted (wherever possible) by a PIP Level 2 (Specialist) Interviewer.

All contact with and decisions made in relation to the interview process for hostile witnesses must be recorded in the Dyfed-Powys Police Witness Interview Planning Booklet.

➤ **Defence Witnesses**

The ABE guidance applies to defence as well as prosecution witnesses and the provisions contained in Part II of the Youth Justice and Criminal Evidence Act 1999 if the court is satisfied that the witness meets the criteria. Staff should also refer to the *Code of Practice for Arranging and Conducting Interviews of Witnesses Notified by the Accused* and ACPO (2012) Position Statement: Interviewing Defence Witnesses.

➤ **Monitoring of Witness Interviews**

Too often this role is subjugated to the need for someone to operate the video equipment whilst, in reality, they have an important role in ensuring the interview objectives are covered so there is overall clarity and completeness of the account. Where possible the interview monitor and should be appropriately trained to the required level.

➤ **Supplementary Interviews**

All further contact with the above categories of witnesses needs to be recorded in the appropriate Dyfed-Powys Police Witness Interview Planning Booklet and should include times, dates, location and duration of visits and a summary of the nature of discussions.

➤ **Intermediaries**

An Intermediary is someone who can help a vulnerable child or adult witness understand questions they are asked and who can then communicate the witness's responses. Intermediaries perform an important function, helping the most vulnerable members of our society gain equal access to justice.

When an intermediary is required to assist during the interview, the Interviewing Officer will contact the SOCA who will match the skills of an intermediary with the needs of the vulnerable witness. To request a Registered Intermediary contact the National Crime Agency Specialist Operations Centre **on 0845 000 5463**.

➤ **Interpreters**

Witnesses and victims should always be allowed to be interviewed in the language of their choice. Interpreters should be appropriately accredited and trained so that they understand the need to avoid altering the meaning of questions and replies. They should be selected from the Wales Interpretation and Translation Service (WITS) or the Signature National Registers of Communication Professionals Working with Deaf and Deafblind People (NRCPD).

Interpreters should be involved in the planning process. They should have a clear understanding of the objectives of the interview, its structure and the function served by any specific techniques used.

If interviewers are working with an interpreter, it is important to have clarified at the outset who will lead the interview in terms of maintaining direct contact with the victim/witness.

➤ **Other Witnesses (not included in the above criteria)**

All other witnesses should be interviewed by officers trained to the appropriate level of PIP, and commensurate to the level of crime being investigated. The interview will normally be recorded by way of a Section 9 Criminal Justice Act 1967 statement (MG11).

➤ **Special Measures**

Special Measures Assessment

Special measures are only available to vulnerable and intimidated witnesses and it is a matter for the court to decide. Officers must ensure that they complete an Early Special Measures Assessment (MG2) as soon as possible after discussing all the special measures available to the witness which will be forwarded to the CPS. Special measures should also be documented on the MG6 and MG11. The Dyfed-Powys Police Witness Interview Planning Booklet also incorporates the views of the witness in relation to special measures.

Early Special Measures Meetings/Discussions

All early special measures meetings/discussions will take place in accordance with the guidance contained within *Office for Criminal Justice Reform (2009) Early Special Measures Discussions between the Police and Crown Prosecution Service* and the National Investigative Interviewing Strategic Steering Group (2010) *Advice on the Structure of Visually Recorded Witness Interviews*.

➤ **Refreshing the Memory of the Witness**

Refreshing the memory of the witness should be conducted as per the guidance contained in Home Office (2011) Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses, and Guidance on Using Special Measures and the Force Protocol which has been agreed with the CPS. In Dyfed-Powys Police, a decision should be reached about the person who is best placed to support the witness whilst their memory is being refreshed.

Section 3

➤ **Interviewing Suspects**

Interviewing Officers must be conversant with the PACE Codes of Practice, in particular Code's C, E, F and G and be selected in accordance with the ACPO National Investigative Strategy 2009 and suitably trained in accordance with the category of offence being investigated.

➤ **Planning and Preparation**

Interviewing officer(s) should be allowed adequate time to plan and prepare thoroughly before the interview. It is essential, therefore, in all cases that Interviewing Officers make use of the Dyfed-Powys Police Suspect Interviewing Planning Booklet.

➤ **Fitness for Interview**

The suspect's fitness for interview should be considered in accordance with the PACE Codes of Practice Code C, Annex G and should be documented accordingly on the Dyfed-Powys Police Fitness for Interview FME Examination and Assessment form.

➤ **Selection of Interviewers**

Suspects should be interviewed by officers trained to the appropriate level of PIP, and commensurate to the level of crime being investigated.

➤ **Visual Interviews of Suspects**

All visual interviews of suspects should be conducted in accordance with the PACE Codes of Practice, Code F. At the time of writing, there is no statutory requirement to visually record interviews.

In Dyfed-Powys Police, it has been decided that the majority of suspect interviews will be audio recorded. However, suspect interviews should be audio/visually recorded for the following offences:

- Murder/Attempted Murder
- Manslaughter
- Kidnap
- Abduction
- Stranger Rape
- Blackmail and Extortion
- Terrorism and Extremism
- Armed Robbery involving the use of a firearm/imitation firearm
- Aggravated burglary where offender is in possession of a firearm/imitation firearm
- Paedophile networks
- Major public disorder
- Organised Hate or Faith crime
- Organised crime and drugs groups
- Arson on an occupied building
- Deaths in healthcare settings (where potential negligence is involved)
- Road Death

Audio/visually recorded interviews will also be undertaken in the following circumstances:

- With or in the presence of, a deaf or deaf/blind or speech impaired person who uses sign language to communicate;
- In any case where the suspect or their representative requests that the interview be recorded visually.

There may be occasions where audio/visual recordings will be considered for offences not listed above e.g. where the interviewer has previous knowledge that the suspect is always obstructive during interview.

Where such an audio/visual interview is requested the interviewing officer must seek advice from a supervising officer prior to commencing the interview.

➤ **Remote Monitoring of Suspect Interviews**

All monitoring of suspect interviews will be undertaken in line with the guidance contained within Home Office Circular 50/1995 and the ACPO (2012) Position Statement: Remote Monitoring of Suspect Interviews.

➤ **Terrorist Suspect Interviewing**

Code H of the Police and Criminal Evidence Act 1984 provides the codes of practice in connection with the detention, treatment and questioning by police officers of persons under Section 41 of, and Schedule 8 to, the Terrorism Act 2000. Whilst the management of such enquiries may lie with the Wales Extremism and Counter Terrorist Unit (WECTU), the interviewing of suspects **must** be conducted by specialist trained officers under the interview management of an appropriately trained Level 2 Specialist Interview Adviser.

There is a pool of officers within Dyfed-Powys, South Wales and Gwent Police who have successfully completed the ACPO TAM sponsored Counter Terrorism Specialist Interview Development Course and whose names are maintained on the ACPO TAM deployment register. These officers are available to be deployed