

## **Interviews with Victims and Witnesses During the Covid-19 Pandemic: Revised Guidance**

### **Introduction**

This paper has been reviewed and updated by the National Investigative Interviewing Strategic Steering Group to take account of changes in the Government guidance issued during the Covid-19 pandemic. It replaces the guidance issued on 6<sup>th</sup> April 2020. As with its predecessor, it begins by outlining the general considerations for interviews with victims and witnesses before moving on to specific concerns surrounding video-recorded interviews with 'vulnerable' and 'intimidated' witnesses (as described in sections 16 and 17 Youth Justice and Criminal Evidence Act, 1999) (YJCEA).

### **General Considerations**

From the outset, it is important that a good quality initial account should be taken by the officer or member of police staff during initial contact with the victim/witness. This is so because research (e.g. Gabbert et al, 2012<sup>1</sup>) suggests that a good quality initial account can help to preserve the memory and inoculate it from post-event memory contamination from external sources such as media reports. Conversely, a poor quality initial account is unlikely to have a beneficial effect on the memory.

Interviews with victims and witnesses should go ahead provided that the circumstances of those involved and the facilities at the proposed location of the interview are such that the Government guidance in respect of social distancing can be complied with.

Where an interview takes place:

- It should be carefully planned and structured;
- Contact should be made with the victim/witness and, where appropriate, any interview supporter, Registered Intermediary or interpreter shortly before the interview is due to take place to ensure that they are fit and well and not isolating for any reason;
- Where the victim/witness is not 'vulnerable' or 'intimidated', is unlikely to be traumatised, has no additional support needs and their account is likely to be straightforward, consideration could be given to preparing a statement following an interview on the telephone;
- Where the victim/witness needs additional support and/or their account is unlikely to be straightforward, they should be interviewed in accordance

---

<sup>1</sup> Gabbert F., Hope L., Fisher R.P. and Jamieson K. (2012) "Protecting Against Misleading Post-Event Information with a Self-Administered Interview", Applied Cognitive Psychology, Wiley Online Library, DOI: 10.1002/acp.2828

with the PEACE model and a written statement prepared. The room in which they are interviewed should be set out in a way that takes account of the Government's guidance for the COVID-19 pandemic (maintaining a safe personal distance, hand washing, wiping down surfaces such as tables before and after the interview etc.) and the guidance circulated by the NPCC lead for Civil Contingencies, DCC Netherton of Devon and Cornwall, on 6th March (including the proportionate use of PPE equipment where appropriate).

## **Video-Recorded Interviews with "Vulnerable" and "Intimidated" Witnesses During the Covid-19 Pandemic: Particular Considerations**

### Legal Considerations

Where a victim/witness is a child under 18, police are obliged to give them the opportunity to participate in a video-recorded interview by virtue of the rebuttable presumptions set out in section 21 Youth Justice and Criminal Evidence Act, 1999 (YJCEA) and paragraph 1.4 on page 73 of the statutory Code of Practice for Victims of Crime (Ministry of Justice, 2015).

Where a victim is a complainant to a sexual offence, police are obliged to give them the opportunity to participate in a video-recorded interview by virtue of the rebuttable presumption set out in section 22A YJCEA.

By common practice, interviews with vulnerable adult witnesses (described in section 16[2] YJCEA as those with a mental disorder, learning disability or physical disorder/disability that affect their ability to communicate) are usually recorded on video provided that they consent.

### Practical Concerns

Video-recorded interviews with victims/witnesses who are under 18, complainants to sexual offences or vulnerable adults should be conducted in a fixed interview suite or elsewhere with the use of portable video-recording equipment.

When consideration is given to the use of portable video-recording equipment at a place other than a fixed interview suite, the potential impact of audio or visual distractions and the consequences of the victim/witness developing negative feelings towards that place as a result of trauma being recalled there should be taken into account. Steps should also be taken to ensure that no other witnesses are present to reduce the scope for any later allegations of collusion or coaching.

Wherever the interview is conducted the room should be set out in a way that takes account of the Government's guidance during the COVID-19 pandemic (maintaining a safe personal distance, hand washing, wiping down surfaces such as tables before and after the interview etc.) and the guidance issued by DCC Paul Netherton of Devon and Cornwall, the NPCC lead for Civil Contingencies on

6th March (including the proportionate use of PPE equipment where appropriate).

At the present time, there is no intention to recommend the use of technology such as Skype to conduct video-recorded interviews with vulnerable and intimidated witnesses remotely. This is so because there is no independent advice from technical experts providing assurance that these remote systems are secure enough to be used for this purpose. If such assurances are forthcoming in the future, the following points will need to be taken into account:

- The same “rules” would need to apply to these recordings as to those set out for the use of portable recording equipment in Appendix M of ABE<sup>2</sup>. That is to say
  - the equipment should only be used in environments that are free of audio and visual distractions (e.g. telephones ringing elsewhere in the premises, vacuum cleaners, washing machines, kettles etc., dogs and cats that need attention, noisy neighbours, street noise, people walking through the room to get from one part of the premises to another);
  - the camera would need to be set up so that it covers the victim’s/witness’ face and upper body so that the jury can take account of their demeanour etc.
- There should be no other witnesses in the premises who are in a position to hear the interview to limit the scope for later allegations of coaching or collusion;
- Witnesses who are traumatised should not be interviewed via a remote link because
  - psychological research (e.g. Risan et al, 2017<sup>3</sup>) suggests that one of the best ways of managing trauma is through rapport and it is very hard to see how rapport can be built effectively and maintained adequately over a video-link
  - interviews should not be conducted with people who are recounting a traumatic experience in a place that they regard as a safe haven. Experience suggests that some people who get very upset and distressed while recounting a traumatic experience can come to associate the trauma with the place in which it was recalled. If that happens to be a room (e.g. living room, bedroom) in their house, they

---

<sup>2</sup> **Achieving Best Evidence** in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses and Guidance on using Special Measures (Ministry of Justice, 2011).

<sup>3</sup> Risan P., Binder P.-E. and Milne R. J. (2017) “Establishing and Maintaining Rapport in Investigative Interviews of Traumatized Victims: A Qualitative Study”, *Policing: A Journal of Policy and Practice*. doi: <https://doi.org/10.1093/police/pax031>

may no longer feel safe in it and this is something that might have profound and long-term consequences for their psychological wellbeing in the premises;

- Victims/witnesses who might need additional support during the interview should not be interviewed via remote link. This would, for example, include traumatised victims or witnesses who might dissociate during the interview, some victims or witnesses with mental health issues whose behaviour can be unpredictable, young children who might need to be encouraged to focus on the task at hand and people with learning disabilities and autism who might struggle to make sense of being asked questions by someone whose image they can only see on a computer screen.

## **Conclusion**

Interviews with victims and witnesses should go ahead provided that the circumstances of those involved and the facilities at the proposed location of the interview are such that Government guidance in respect of social distancing can be complied with. Where an interview goes ahead and the victim/witness is not vulnerable or intimidated, is unlikely to be traumatised, has no additional support needs and their account is likely to be straightforward consideration can be given to preparing a statement following an interview on the telephone. Where an interview with a victim/witness who is under 18, an adult who is vulnerable as a consequence of a mental disorder, learning disability or physical disorder/disability that affects their ability to communicate or a complainant to a sexual offence goes ahead they should be interviewed on video, provided that they consent, taking account of Appendix M of ABE, the Government's guidance during the COVID-19 pandemic (maintaining a safe personal distance, hand washing, wiping down surfaces such as tables before and after the interview etc.) and the guidance issued by DCC Paul Netherton of Devon and Cornwall, the NPCC lead for Civil Contingencies on 6th March (including the proportionate use of PPE equipment where appropriate).

Any enquiries in respect of this guidance should be addressed to:

Dr Kevin Smith

National Vulnerable Witness Adviser

National Crime Agency

0345 000 5463 or [kev.smith@nca.pnn.police.uk](mailto:kev.smith@nca.pnn.police.uk)