

*Protection**Child centred**Justice*

Evidential and technical quality of joint investigative interviews

June 2021

The Crown Office and Procurator Fiscal Service (COPFS) and Scottish Children's Reporters Administration (SCRA) are key partners in the National Joint Investigative Interviewing Project. Each of these organisations has roles and responsibilities in respect of the use of joint investigative interviews and each can offer a particular perspective on the evidential and technical quality of these interviews.

A new evaluation process is being introduced by both organisations to identify and share good practice for the purpose of maximising the quality of joint investigative interviews (JII) in order that they can be used as Evidence in Chief.

These processes are at very early stages of implementation, but in the interests of transparency and to best support continuous improvement, some early findings have been drawn upon to inform this paper.

Some of these recommendations will already be familiar to experienced joint investigative interviewers – they have been highlighted previously. They are included here because these quality issues continue to feature in recent evaluations.

This paper includes recommendations for improving the quality of JIIs based on evaluation activity by COPFS and SCRA and is being shared to support continuous improvement in JII practice across the country. These findings are pertinent to all joint investigative interviewers across Scotland, regardless of the interview model being used.

Appended to this document is a checklist developed by a Senior Advocate Depute with significant experience in evaluating JIIs as evidence. It is recommended that interviewers adhere to this checklist.

Practice recommendations

1. To support the aim of using the child's JII as Evidence in Chief, a change of procedure has been identified by COPFS:

With immediate effect, interviewers will ask the child to identify themselves in the JII. That is, to cause the child to state their name, age, and date of birth within the Introduction Phase of the interview.

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It is appreciated that some children\young people may not know all this information, but there is a requirement for them still to be asked. The pre-amble undertaken by one of the interviewers should still take place in the normal manner with the interviewer stating the child's name, age, and date of birth before the interview (as is current practice).

2. **Camera Position:** Regular checks of the positioning of the cameras throughout the interview should be conducted to ensure the child can still be clearly seen. A view of the child should be the most dominant feature on the recording.
3. **Sound Quality:** Interviewers need to ensure the microphone is not placed too far away from the child leaving their speech inaudible and requiring the interviewer to either clarify or repeat what the child has said. Interviewers should also ensure that items which may impact on the quality of sound recording (such as plastic bottles of juice, rustling of crisp packets etc.) are not introduced into the interview room.
4. Where a child interview is of a sexual nature, the Procurator Fiscal advises that unless it is pertinent to the enquiry, questions relating to the **child's sexual activity/experience** (either before the relevant incident or since the incident) should not be asked. Clearly, if the crime under investigation is, for example, still within the forensic interview, then sexual activity within the relevant timeframe would be appropriate. Whilst it is pertinent to ask the child such questions for welfare purposes, this should be done off camera. Any disclosures made during welfare chats that are then deemed pertinent to the criminal investigation should be captured in the usual way.
5. Interviewers should **avoid summarising** a child's evidence at the end of the interview. The issue has arisen where the evidence being recapped has been done so inaccurately and the child then simply agrees with the incorrect synopsis which clearly can be damaging to the future case. This does not rule out requesting clarity or verifying understanding on comments made by the child.
6. Indeed, recent evaluations by SCRA have highlighted that interviewers should ensure they take opportunities to **clarify language, phrases or concepts** expressed by the child during interview that may be open to interpretation. A thorough exploration of these types of occurrences during the interview itself is likely to reduce the requirement for these to be tested out in cross-examination.

Appendix

JOINT INVESTIGATIVE INTERVIEWS - CHECKLIST developed by Senior Advocate
Depute

1. Can you hear the witness clearly/ no background noise?
2. Can you see the witness clearly (preferably with no visual distractions)?
3. Capture the full name, age and date of birth from the witness if possible
4. Capture the details of the crime
5. Capture the place(s) the crime took place if possible or at least narrow as far as possible
6. Capture the dates and times of the crimes if possible or at least narrow as far as possible
7. Keep preamble short and avoid recap unless short and certain accuracy
8. Avoid hearsay: try to avoid the witness telling you what others said and do not tell the witness what others are saying
9. Avoid telling the witness he/she is doing well/they are believed
10. Do not express opinions