

The importance of the child's free narrative in child protection investigations in Scotland

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Key Messages

Research shows that children and young people who are jointly interviewed in relation to child protection concerns provide best evidence when they are enabled to access free-recall memory and are encouraged to provide a free narrative account of their experiences.

The free narrative style is a departure from everyday conversation in British culture, where a direct questioning style is the norm.

Several approaches to interviewing children and young

people have been developed. Their effectiveness has been researched and evaluated to varying degrees.

Professionals conducting joint investigative interviews in Scotland are generally confident in their ability to conduct interviews in accordance with the Scottish Government Guidance ^[1]. However, research shows that interviewers consistently struggle with the open questioning style required in joint investigative interviews.



Introduction

Children in Scotland who are subject to child protection investigations are often interviewed jointly by specially trained police officers and social workers. Information gathered during these interviews informs risk assessment and may contribute to legal proceedings, either through the Children's Hearing system or criminal courts. In Scotland, visually recorded interviews may be used as Evidence-in-Chief.

The knowledge and skill of interviewers in encouraging free narrative from the child during interviews can contribute greatly to the quality of evidence obtained for risk assessment and potential legal proceedings. Interviewers need to have an understanding of how children access their memory and be able to use facilitative techniques in order to obtain best evidence, while keeping the child's best interest as their foremost consideration throughout the interview.

The Guidance on Joint Investigative Interviewing of Child Witnesses in Scotland (Scottish Government, 2011 – hereinafter referred to as the 2011 Guidance)^[1] sets out the requirements in relation to the conduct of child protection interviews and is the basis for the joint investigative interview training, which all interviewers are required to attend. It promotes the use of a phased approach to joint investigative interviews, dividing the interview into six parts:



- The **introduction** allows interviewers to outline their roles and responsibilities, explain the recording methods and provide guidance to the child on how the interview will be conducted, by introducing them to “interview principles”.
- The **rapport phase** should focus on exploring the child's world in a non-threatening way. It should help relax the child in this relatively formal setting and provide interviewers with an opportunity to “gain a better understanding of the child's communication skills and current stage of cognitive, social and emotional development” (p.29)^[1].
- The **practice interview** is a semi-formal opportunity for the child to practise the format of the substantive phase of the interview. Interviewers should encourage the child to provide a free narrative account, accessing their episodic memory. Children should be asked to talk about a single event, from beginning to end, in as much detail as possible.
- The **free narrative phase** is described as “... the most reliable source of accurate and untainted information, provided the child has not been subject to interviewer bias in earlier interviews, and has not been coached” (p.31)^[1]. Children are asked to provide as much information as possible, without interruption from the interviewers.
- **Questioning** follows on from the free narrative, exploring further evidence, but always attempting to gain more free narrative information from the child where possible.
- The **closure phase** provides an opportunity for the child to ask questions and for a return to rapport, which should enable the child to compose him/herself before leaving the interview.

Why is this issue important?

The potentially negative impact of poor interview practice in child protection investigations, such as a lack of planning, poor inter-agency work, use of leading questions and interviewer bias, was illustrated vividly in 1990, when 16 Orkney children were removed from their families amidst concerns over organised sexual abuse ^[4]. The events attracted considerable media attention, with links being made to the Cleveland Inquiry ^[2] and events in Rochdale in 1990 ^[3]. Lord Clyde's report into the removal of children from Orkney ^[4] raised serious concerns over interview practices by police officers and social workers. Thirty of the 194 recommendations in his report are directly related to this issue. Developments in Scotland since then have focused on finding techniques which enable children and young people to provide best evidence, allowing professionals to protect them and to bring those who may have harmed children to justice.

The lessons learned from the Orkney inquiry and research relating to interviewing children and young people who may have been harmed, have come a long way. Guidance published by the Scottish Executive in 2003 ^[5] highlighted the importance of interviewers' ability in obtaining a free narrative account from children, which combines the benefits of maximising access to the child's memories and minimising the impact of interviewer bias. The guidance was quickly followed by a number of pilot projects to explore the introduction of visually recorded interviews of child witnesses. In 2007, findings from Scottish Executive's evaluation of these pilots indicated that interviewers' practice varied. Indeed, there appeared to be "... some confusion over what constitutes good practice" (Scottish Executive, 2007, p.2) ^[6].

In July 2010, comments by Sheriff Morrison were published in The Scotsman newspaper ^[7] expressing concern over a joint investigative interview undertaken by staff who had completed the nationally recognised Joint Investigative Interview Training ^[8]. Sheriff Morrison indicated that the lead interviewer had used "direct, leading, suggestive

and closed questions" ^[9] and that notes of what the child had said were "disingenuous". Such were his concerns over the potentially damaging impact of poor interview practice that he suggested the removal of both interviewers from interview duties until they had been retrained. Child protection professionals were named by Sheriff Morrison, which created considerable anxiety amongst police officers and social workers, and was further fuelled by the publication of an article by La Rooy and Halley (2010) ^[10] that referred to research ^[11] which examined police officers' adherence to Scottish Executive Guidance published in 2003 ^[5]. The survey questionnaire was based on participants' self-evaluation and the results led authors to express concern over the lack of open questions used by interview staff.

In 2011, the Scottish Government issued new guidance ^[1] for interviewing child witnesses, which provides a helpful framework for child protection interviews and stresses the importance of interviewers' competence in conducting joint investigative interviews. It introduced visual recording of interviews of child witnesses in Scotland. This Guidance is largely in line with interview practices in England and Wales, which had moved to visual recording of interviews more than 20 years previously, based on the Memorandum of Good Practice on Video Recorded Interviews of Child Witnesses for Criminal Proceedings 1992 ^[12]. This was replaced in 2002 by Achieving Best Evidence in Criminal Proceedings – Guidance on Interviewing Victims and Witnesses and Using Special Measures, which is now in its third edition ^[13].

What does the research say?

Research ^[14, 15, 16, 17] in relation to child protection interviews reflects the importance of a free recall account from children and can largely be divided into 3 main categories:

- Children's memory and the importance of free narrative accounts;
- Techniques for accessing children's memory;
- Interviewers' skills in encouraging free narrative accounts.

Children's memory and the importance of free narrative accounts

Child protection interviews rely on children accessing their memory to retrieve details of events and experiences. Research on children's memory often differentiates between recognition memory, which requires a specific cue or prompt and free-recall memory, which is retrieved without a specific cue^[18, 11, 19, 20]. The difference between these types of memory is illustrated when recognising a person's face in the street, but not being able to *remember the time and place of first meeting them*. For legal purposes, free-recall memory provides the best quality of evidence, as it is "less prone to error than information elicited from recognition memory"^[21]. Recognition memory is also easily influenced by interviewer bias^[14].

Research has explored the differences between children's memories of single and repeated events. It has been shown that children, in general, are able to recall considerable detail, but that single events are recalled as an episode, while repeated events tend to be recalled as a script of what happens usually, rather than a succession of single episodes^[22, 23]. This sets interviewers additional challenges when children have been harmed repeatedly in the same way. In the legal system, witnesses are required to provide detailed evidence in relation to each individual event, rather than telling the interviewer what normally happens. Brubacher et al (2009)^[24] suggest that the use of a single episode of a repeated event during the practice interview may subsequently help these children provide evidence in relation to a single, but repeated episode of abuse experience.

The findings above are particularly reflected in the emphasis placed on free narrative accounts from children in child protection interviews, which aim to tap into free-recall memory. The 2011 Guidance describes free narrative as "the most reliable source of accurate and untainted information provided the child has not been subject to interviewer bias in earlier interviews, and has not been coached. A free narrative is the child's own uninterrupted account of what has taken place" (p. 31)^[1].

However, researchers have noted that the free narrative is a departure from everyday conversation in British culture, where a direct questioning style is the norm. The demands on children and interviewers alike are therefore considerable^[25, 26, 27].

Techniques for accessing children's memory

In joint investigative interviews of child witnesses, the interviewers are faced with a dilemma: how can children be encouraged to provide sufficient evidential detail, without the process of gathering this detail becoming in itself abusive and damaging to the child, as they recall possibly traumatic experiences? A young person being asked to recount the detail of sexual abuse experienced may serve the needs of the justice system; it may even make an important contribution to the child protection system, which should then ensure the safety of that young person, but the 2011 Guidance clearly separates the investigation from therapeutic support, stating that therapeutic interviews must not interfere with the investigative process and that investigative interviews must not stray into therapy-focused interviews^[1]. It could therefore be argued that, at times, the process in place to protect children and bring offenders to justice is potentially at risk of having the needs of the criminal justice system as its paramount consideration, rather than the child's best interest.

The dilemma outlined above puts in context the need to ensure that interviewers employ evidence-based practice in joint investigative interviews to avoid the unintended re-traumatisation of children and young people through the interview process, while still obtaining best possible evidence. An understanding of children's memory and how to access it, alongside a solid knowledge of child development are therefore crucial. Free-recall memory is encouraged by use of open-ended prompts and open questions, while recognition memory is accessed through use of focused questions^[28, 29, 30, 18, 31]. Larson and Lamb (2009, p.3)^[14] caution against the use of focused questions in accessing children's memories, as they "... focus children on domains of interest to the questioners, and exert pressure to respond or agree

with interviewers (whether or not the children are sure of their response)". This is also supported by Lamb et.al. (2007, p.1203) ^[16] who encourage interviewers to "... introduce as little information as possible while encouraging children to provide as much information as possible in the form of narratives elicited using open-ended prompts". The 2011 Guidance (p. 33) ^[1] states that "... specific questions do not allow the child to collect their thoughts; it takes time to search memory". Research also shows that repeated focused questions can result in children changing their answers, with children who have learning disabilities being particularly affected ^[32].

Even very young children are able to benefit from open-ended prompts. Ghetti et al (2002) ^[17] found that when preschoolers were asked open-ended prompts, they were able to provide significant information, often elaborating on this information in subsequent interviews, rather than repeating the same information. Alongside this, they found a fairly high level of accuracy in the children's accounts. La Rooy et al (2010) ^[28] also found that repeated interviews (provided they follow best practice), particularly soon after the incident in question, may help children provide additional, accurate evidence. In Scotland, the emphasis on attempting to obtain all evidence in a single interview may not therefore support this elaboration on information.

In contrast, the use of suggestive and/or misleading questions has been criticised as potentially introducing erroneous information and reducing accuracy in children's accounts, as the interviewer rarely knows the full story ^[17, 14, 33].

The use of repeated questions in interviews with children who have a learning disability has been particularly highlighted in research by Cederborg et al (2009) ^[32] in Sweden. The researchers found that the children frequently changed their responses when repeated questions were asked, which would have a serious impact on their evidence being viewed as reliable in legal proceedings. There is, therefore, a considerable risk of the evidence from children with learning disabilities

not being heard unless interviewers are skilled in enabling free narrative accounts from them ^[34]. In child protection investigations "the joint approach aims to reduce the number of times a child is interviewed" (Scottish Government, 2011, p.40) ^[1]. However, the research by Ghetti et al (2002) ^[17] above is also supported by findings by Powell and Thomson, (2002, p.79) ^[35], who state that follow-up interviews "provide the child with further opportunities to remember details that s/he did not recall or recognise earlier". While such an approach would not be appropriate if these interviews were likely to cause distress, there is currently little provision in the 2011 Guidance ^[1] to approach this issue on a flexible and child-centred basis.

While research generally supports that best evidence is obtained from free-recall memory ^[14, 36, 17], there is less agreement over the most effective techniques for obtaining such evidence. In Scotland, two approaches are currently used:

The phased approach, as outlined in the 2011 Guidance ^[1], or the structured protocol, developed by the National Institute of Child Health and Human Development ^[37]

The phased approach

As outlined above, the 2011 Guidance ^[1] aims to maximise free-recall memory by use of the phased approach, which is broadly in line with the approach used in England and Wales (Ministry of Justice, 2011) ^[13].

Throughout the interview, interviewers are expected to use their professional interview skills, as taught during the Joint Investigative Interview Training ^[8]. There should be a natural progression from introduction and rapport, to practice interview, to free narrative, giving the child ample opportunity to access free-recall memory and thus provide high quality evidence. The practice interview plays an important part in preparing children for the unusual format of joint investigative interviews and in particular for the free narrative phase. Research by Sternberg et al (1997, p. 31) ^[38] found that "children who were given practice interviews reported

as much as 2½ times more information in response to the first question asked during the substantive phase of the interview”. Even in the questioning phase interviewers are expected to use open prompts and open questions to encourage further free narrative from the child. “Pausing and not interrupting the child is the best technique for allowing the child to search their memory effectively” (Scottish Government, 2011, p.26)^[1].

The key to obtaining free narrative from the child is seen to lie in the interviewer’s active listening skills, an avoidance of interruptions, use of open prompts and open-ended questions, echoing and non-verbal utterances. Overall, though, there is considerable flexibility in how this approach is translated into practice.

The structured protocol

Given the importance of free narrative in evidential terms, many researchers have explored different ways of conducting the interviews in general, and the free narrative phase in particular. Good results have been achieved by using a structured protocol. Sternberg et al (1999, p.75)^[21] found that, when employing a structured protocol, “open-ended questions and follow-up probes used by interviewers in the pre-substantive phase ‘trained’ the children to provide detailed responses to prompts about the substantive issue”.

Sternberg et al (1999)^[21] further found that the use of the structured protocol developed by the National Institute of Child Health and Human Development^[31] encouraged interviewers to use greater numbers of open-ended prompts which, in turn, increased the amount of free-recall information provided by children, thus improving the quality of evidence. The protocol has been described as “a flexibly structured protocol incorporating a wide range of strategies believed to enhance retrieval” (Orbach et al, 2000, p.734)^[31]. Sternberg’s findings are supported by significant subsequent research, with the NICHD team having access to over 40,000 NICHD protocol interviews for research in several countries^[37, 39].

There is general agreement that the use of a structured protocol needs to be supported by ongoing supervision and feedback to interviewers^[40, 39]. Sternberg et al (1999)^[21] in particular recognised that interviewers found it difficult to follow a structure unless they used it frequently and received ongoing feedback on their practice.

The use of the NICHD protocol is not widespread in Scotland.

Interviewers’ skills in encouraging free narrative accounts

La Rooy et al (2011)^[11] found that, in spite of respondents’ self-evaluations indicating a high level of confidence in their own compliance with the 2003 Guidance^[5], an analysis of their answers raised concerns about interview practice and application of this guidance.

Research^[11, 41, 16, 42] has shown that interviewers persistently struggle in specific areas of the interview, such as:

- lack of practice interviews;
- lack of open prompts to encourage free narrative;
- over-use of closed and leading questions.

The use of practice interviews to prepare children for the free narrative appears to be patchy^[43, 42].

La Rooy et al (2011, p. 6)^[11] state that “most interviewers (87%) reported that they never or rarely conducted practice interviews”. It should be noted though that this research was carried out prior to the publication of the 2011 Guidance^[1], which clarified the benefits of practice interviews to a greater extent. However, subsequent research by Goetzold (2015)^[42] found that, while interviewers in the study acknowledged the importance of free narrative, none of them identified the practice interview as a way of encouraging it. Indeed, some interviewers felt that it was not a useful tool, preferring a more flexible approach to the pre-substantive phase of the interview.

Aldridge and Cameron (1999) ^[29] found that interviewers did not use open prompts sufficiently. These findings are also supported by Warren et al (1999) ^[44] and mirror comments by the Scottish Executive (2007) ^[6]. In an analysis of 72 interviews carried out by police officers in Sweden, Cederborg et al (2000) ^[41] also found that very few (only 6%) of interviewers' utterances were open-ended and only elicited 8% of the information obtained. The messages above are further supported by Lamb et al (2007, p. 1203) ^[16], who state that "descriptive studies of forensic interviews in various parts of the United States, United Kingdom, Canada, Sweden, Ireland and Israel consistently show that forensic interviewers use open-ended prompts quite rarely, even though such prompts reliably elicit more information than more focused prompts".

Possible reasons for non-compliance with the 2011 Guidance

Over the years, a number of reasons have emerged in research to explain interviewers' non-compliance with the 2011 Guidance in Scotland ^[1].

The unfamiliar format and communication style pose a considerable challenge for social workers and police officers alike and one which, perhaps, cannot be met with the 5-day course currently provided across most of Scotland (Goetzold, 2015) ^[42]. Social workers, for example, may need to "unlearn" the therapeutic interview styles taught on qualifying courses in order to conduct forensic interviews with children ^[39]. Goetzold (2015) ^[42] found that social workers and police officers themselves recognised a need for a greater emphasis on developing interview skills on qualifying programmes for both professions. The ongoing specialist support and feedback required is rarely available to practitioners, nor is the frequent exposure to interview situations, which would allow them to hone their skills, unless placed in a specialist unit.

While some non-compliance is clearly due to lack of skill, knowledge and/or ongoing support and feedback, Carson and La Rooy (2014, p.50) ^[20] also found that, while police officers were aware of the requirements of the 2011 Guidance ^[1], they chose to divert from it on the

basis of "...commonsense or 'folk' psychology". Based on research with police officers, they suggest that "officers have substantial, largely consensual, pre-existing reserves of commonsensical psychological 'expertise' which effectively act as a barrier to protocol recommendation implementation". In combination with a desire to follow the child's cues, this can often lead to significant departures from the 2011 Guidance ^[1]. However, such diversion from guidance highlights not only the need for investigative interview training to include extensive teaching on child development and memory retrieval, but also the dilemma often faced by interviewers of either following the guidance or following the cues from a child, who does not know the guidance ^[39].

Research has also shown that some interviewers do not believe that specific evidential requirements can be obtained through free narrative and open prompts/questions ^[26, 45]. This can result in free narrative being cut short by early funnelling, as interviewers follow up statements they view as significant to establish detail and then subsequently struggle to return to the free narrative format ^[42].

Many practitioners view interviews with young children as a particular challenge, as they do not believe that young children are able to provide free narrative ^[20]. However, there have been numerous examples of very young children contributing extensive evidence in court. Marchant (2013) ^[46] reports instances of children as young as 4 providing crucial evidence in relation to events they experienced aged 2 or 3. In line with the 2011 Guidance ^[1], she stresses the importance of a "practice narrative", asking the child to provide an account of a neutral event, which is not related to the incident under investigation (eg "Tell me what happened at the nursery Christmas Party") (p. 440) in order to prepare the child for the substantive phase of the interview. Research ^[19] does show though that 3-4 year olds respond better to specific recall prompts, rather than open-ended prompts or to shortened open prompts (eg "what happened" as opposed to "tell me what happened") suggesting that interview techniques need to be adjusted to some extent for pre-school children.

Implications for practice

The 2011 Guidance^[1] places considerable expectations on child protection interview staff which, at present, do not appear to be fulfilled consistently. As a result, children and young people do not always receive as much support as they could to provide best possible evidence. It is therefore important that police officers and social workers who conduct joint investigative interviews are confident and competent on completion of the joint investigative interview training and beyond.

Implications for practitioners:

- Interviewers need to recognise that the phased approach draws on a solid evidence base and, while it requires an unfamiliar approach to communicating with children and young people, it offers them an opportunity to provide best evidence to assist in protecting them and in bringing those who harm them to justice.
- Interviewers need to recognise the importance of the progression from introduction and rapport to practice interview and free narrative. The interview format is unfamiliar to British culture and children and young people therefore need an opportunity to practise and get used to this open questioning style – as do interviewers.
- Encouraging free narrative from children and young people should not be limited to joint investigative interviewing. It may also be helpful in gaining a true picture of the child's world and in establishing their views on significant issues affecting their lives.

Implications for employers:

- Joint investigative interview practice requires ongoing feedback and support for interviewers. This is currently not widely available but is crucial in ensuring good practice.
- The tendency for agencies to have large pools of interviewers results in a dilution of skills and expertise. Interviewers need frequent exposure to joint investigative interviews if they are to continue as competent practitioners.

- While police interviewers are commonly based in specialist units, this is not a common approach for social workers. However, joint investigative interviewing of children needs to be viewed in line with other specialist areas of practice, such as mental health, to ensure that practitioners have sufficient opportunity to hone their skills and receive the support they require.

Implications for policy makers:

- The focus of the 2011 Guidance^[1] on a single joint interview may not give children sufficient opportunity to provide best evidence. A more flexible approach may need to be adopted.
- The majority of research in recent years has focused on the effectiveness of the structured protocol approach. Similar research is required in relation to the phased approach adopted by the Scottish Government.
- With the increasing research base relating to joint investigative interviewing of children, the expectations on interviewers' practice are increasingly high. The 2011 Guidance^[1] stresses the importance of interviewers' competence. This needs to be backed up with an appropriate framework for assessment of practice, which goes beyond initial assessment during the joint investigative interview training. Policy makers should consider the introduction of a system of registration of joint investigative interviewers, in line with recommendations made by the Social Work Inspection Agency (2005)^[47]. Regular re-registration of interviewers on the basis of practice evaluation should be considered alongside this.
- The increasing research base in relation to child protection interviews needs to be reviewed regularly and should inform future revisions of the guidance in Scotland.

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