

## RESPONSE TO YOUR REQUEST

### **1. Please provide me with or refer me to a list of those presently appointed to the safeguarders panel under the Children's Hearing (Scotland) Act 2011.**

As indicated above, 38(1)(b) of FOISA (personal information) applies to this request because it is for personal data of a third party, ie names of individuals. However we are able to provide numbers of safeguarders by local authority.

#### **Number of Safeguarders by Local Authority**

Aberdeen	x 9
Angus	x 5
Argyll	x 1
Ayrshire	x 8
Clacks	x 3
Dunbartonshire	x 3
Dumfries and Galloway	x 3
Dundee	x 7
East Lothian	x 3
Edinburgh	x 19
Falkirk	x 3
Fife	x 12
Glasgow	x 32
Highlands and Islands	x 8
Midlothian	x 1
Moray	x 1
Perthshire	x 6
Renfrewshire	x 4
Scottish Borders	x 5
South Lanarkshire	x 6
Stirling	x 6
West Dunbartonshire	x 1
West Lothian	x 4

Number of females – 99    Number of males - 51

### **2. Please provide a copy of the contract/remit/terms of reference between the Scottish Government and Children 1st as it relates to developing and maintaining practice standards for safeguarders.**

Please see below an extract from the contractual arrangements between Children 1<sup>st</sup> and the Scottish Government in relation to the Practice Standards.

#### **1. Support and Performance Monitoring**

- 1.1.** Practice Standards and the Performance Support & Monitoring Framework (PSMF) provide the structure for monitoring and assessing performance. The PSMF also establishes arrangements for the training and support of safeguarders, particularly on the standards expected of safeguarders and the means by which performance against them can be assessed.

- 1.2.** In accordance with the Practice Standards (“Standards 8”) Children 1st will offer a level of support to safeguarders that is reasonable and linked to the safeguarders ability to perform in the role in accordance with the Practice Standards.
- 1.3.** Children 1st will allocate an individual Support Manager to every safeguarder.
- 1.4.** Children 1st<sup>t</sup> will provide individual and/or group support to safeguarders as appropriate, as informed by learning needs and/or Individual Development Plans related to consistently meeting the Standards.
- 1.5.** Children 1st will support networks and peer mentoring where appropriate as a means of providing proportionate support to safeguarders – resource dependent.
- 1.6.** Children 1st will provide training materials including Practice Notes to supplement the Practice Standards by providing further clarity on the expectations of safeguarder’s practice and conduct.
- 1.7.** Children 1st will provide regular communications with safeguarders and partners on the significant developments on the Safeguarders Panel.
- 1.8.** Children 1st will implement the PSMF for every safeguarder in accordance with the Safeguarders letter of appointment.
- 1.9.** Children 1st will measure if the safeguarders ability and willingness to practice satisfactorily against the Standards as a requirement of their letter of appointment, using the structure of the PSMF.
- 1.10.** Children 1st will deliver as standard three Individual Support Sessions for safeguarders in each year of appointment.
- 1.11.** Children 1st will make adjustments to this standard where appropriate and where circumstances require this.
- 1.12.** Children 1st will provide no less than two training events for every safeguarder in each year of their appointment.
- 1.13.** Children 1st will provide assessment of the safeguarders at training events to contribute to the overall information available of the safeguarders’ performance.
- 1.14.** Children 1st will sample a minimum of two reports as standard for every safeguarder in every year of their appointment assessing these against the Practice Standards.
- 1.15.** Children 1st will make adjustments to this standard where appropriate and where circumstances require this.
- 1.16.** Children 1st will receive feedback on safeguarders to contribute to the overall measurement of their ability and willingness to practice in accordance with the Standards, (dependant on partner agencies).
- 1.17.** Children 1st will hold Individual Development Plans, within individual support session recordings, in the safeguarder’s file in accordance with the PSMF. These will support learning and development that enhances performance and to plan and monitor improvements required.

1.18. Children 1st will provide the Scottish Government with data on the performance monitoring activity of individual safeguarders and the Panel as a whole in quarterly contract meetings.

**3. Please advise on input by the Scottish Government to training materials, performance and practice standards for safeguarders. Did a Scottish Minister or official approve or contribute to the current Complaints policy for safeguarders published**

**at: <https://www.children1st.org.uk/media/6176/safeguarderspanelcomplaintspolicy2017.pdf> or the current Performance Support and Monitoring Framework published at: <https://www.children1st.org.uk/media/5823/performance-support-and-monitoring-framework-for-safeguarders-oct-16.pdf> ?**

In terms of the 2012 Safeguarders regulations, regulation 8 obliges the Scottish Ministers to train, or make arrangements for the training of, safeguarders. Regulation 9 stipulates the minimum content of the training – that content must include the standards for safeguarders. Regulation 11 requires Ministers to keep the operation and management of the panel under review and to monitor safeguarders' performance. All of that is delivered via the appointed managing contractor Children 1<sup>st</sup> in terms of their Statement of Requirements, agreed with the Scottish Government.

Therefore, the overall purpose of the Performance Support and Monitoring Framework (PSMF) and of the Practice Standards is to secure Ministerial compliance with those regulatory requirements. The main focus, however, is to support all safeguarders to perform in their role.

### **Input by the Scottish Government to training materials, performance and practice standards**

There was, and is, no direct input from Scottish Government policy officials to the detailed practice-related content of training materials for prospective or serving safeguarders. The initial pre-service and in-service material was assembled by Children 1<sup>st</sup> staff, with support from Clan Childlaw, from University-based Children's Hearings Training Organisers who had had prior experience of safeguarder training delivery and design, and from serving safeguarders themselves. Detailed training provision is now compiled by the safeguarders panel team at Children 1st.

Now that the PSMF is embedded, the broad priority areas to be covered by each year's general forward training programme is based on i) discussion with individual safeguarders themselves during events and individual support sessions, and ii) on a broader assessment between Children 1<sup>st</sup> and Scottish Government officials as to what will be needed for safeguarders to keep pace with current and forthcoming practice and conduct expectations, and to maintain compliance with any new statutory or other requirements. The broad programme and training prospectus is agreed between Children 1<sup>st</sup> and Scottish Government officials before each business year, and is reviewed at regular contract management and quarterly strategic meetings.

## **Input by Scottish Government to practice standards and PSMF**

Policy officials from the children's hearings team and Scottish Government legal advisers were involved with supporting the drafting of some elements of the commentary around the practice standards and the Performance Support and Monitoring Framework. This was confined to ensuring that the material was fully coherent, and that it fully realised Ministers' policy expectations as well as aligning with the standing regulatory provisions.

### **Current complaints policy**

Ministers did approve the current complaints policy for issue and publication. Its detailed provisions were drafted between Children 1<sup>st</sup> staff and policy officials in the children's hearings team, and its contents approved by Government legal advisers.

### **Practice Standards and Performance Support and Monitoring Framework**

In order to reinforce the central supervision and support functions, and acting on CELCIS independent research findings, Ministers agreed in 2015 that the Scottish Government could engage Children 1<sup>st</sup> in the critical performance management, modular training and reappointment work that needed to be delivered ahead of the major safeguarder re-appointment exercise in June 2016.

Children 1<sup>st</sup> worked with a small group of safeguarders to develop both the draft practice standards and a draft Performance Support & Monitoring Framework for consultation. In February 2015, Ministers agreed that the draft practice standards could be issued for consultation with safeguarders. Attached is the letter issued jointly from the head of the responsible Scottish Government division, and from the Children 1<sup>st</sup> Assistant Director.



Letter to  
Safeguarders.pdf

Reminders about the consultation – that ran from March to May 2015 - were issued to safeguarders on 27 March, 17 April and 1 May 2015. 23 responses were received to that consultation and the draft standards were further updated to reflect the comments received. Children 1<sup>st</sup> also worked at that time with Government policy officials to update the key competencies that are used in relation to appointment of new prospective safeguarders to the panel.

The finalised package of material – encompassing the standards and PSMF – was issued to all safeguarders and key partners in late June 2015, with a covering letter from the then Minister for Children and Young People.

### **Engagement Events**

Following on from this work, eleven interactive engagement events were held for safeguarders across the country in summer 2015, focusing on the introduction of the Practice Standards and the associated Performance Support and Monitoring framework. The events were led by Children 1<sup>st</sup>, supported by Scottish Government policy officials from the children's hearings team.

**4. Please provide me with a copy of the current training materials used by Children 1st for newly appointed safeguarders.**

Due to the volume of material this is being provided separately on a memory stick.

**5. Please provide me with the number of complaints investigated under the complaints policy above from employees of Scottish local authorities or otherwise from Scottish local authorities for the last 3 financial years and identifying the local authorities concerned.**

<b>2013-2015</b>	<b>8 Complaints from Local Authorities</b>
Clackmannanshire	
Denny	
East Ayrshire	
East Lothian	
Edinburgh	
Fife	
Glasgow	
North Lanarkshire	

<b>2015-2016</b>	<b>8 Complaints from Local Authorities</b>
East Lothian	x 2
Glasgow	x 2
Highland	
South Lanarkshire	
South Lanarkshire	
West Lothian	

<b>2016-2017</b>	<b>8 Complaints from Local Authorities</b>
East Lothian	
Edinburgh	
Falkirk	
Glasgow	x 3
South Lanarkshire	
Wick	

**6. Please provide me with the numbers of complaints safeguarders have made against local authorities or employees of local authorities regarding child welfare/protection and practice issues to either the Safeguarders Panel Team or the Scottish Government for the last 3 financial years and identifying the local authorities concerned.**

No complaints have been received by either the Safeguarders Panel Team at Children 1<sup>st</sup> or the Scottish Government.

Robert Marshall  
Deputy Director  
Scottish Government

Linda Jardine  
Assistant Director  
CHILDREN 1<sup>ST</sup>

Dear Safeguarder

We are pleased to have the opportunity to write to you jointly - as head of the Scottish Government division with policy responsibility for safeguarders, and as Assistant Director of the managing contractor CHILDREN 1<sup>ST</sup>.

You will find available on the Safeguarders Panel webpage some important operational information, and also an invitation to get involved with the development of the safeguarder discipline by offering your views on the attached draft Practice Standards.

You will find available:

*For information:*

- Revised fees, expenses and allowances scheme and associated guidance;
- Updated interim operational guidance ;
- Revised child protection policy
- Lone working guidance;
- Revised complaints procedure.

*For information, consideration and feedback:*

- Consultative draft of safeguarder practice standards for comments **by Friday 8 May.**

### **The regulatory imperative – autonomy with accountability**

As you know, safeguarders are appointed by the Scottish Ministers to a national panel from where they can be appointed to safeguard the interests of individual children in the children's hearings system.

CHILDREN 1<sup>ST</sup> is contracted to exercise delegated authority on behalf of Ministers and they will continue to play a critical role in selecting, training, supporting and monitoring performance of safeguarders.

Ministerial appointment brings with it expectations of standards of public service.

Scottish Ministers are bound by regulations to keep under review the operation and management of the panel, and to monitor the performance of members of the national Safeguarders Panel. The CHILDREN 1<sup>ST</sup> Statement of Requirements obliges them to support Ministers in meeting those responsibilities.

The safeguarder's role, once appointed, is independent from other agencies. But the status of a safeguarder needs to be set within parameters of appropriate transparency and accountability. The underlying aim is to command internal and external confidence in the work of each safeguarder, and in the national panel as a body of practitioners.

### **Draft Practice Standards**

It is important to have clear expectations of safeguarders codified in a standards-based framework. In return for asking safeguarders to fulfil those expectations, we are bound to put in place the requisite support measures.

Once finalised, we want to help safeguarders to identify positively with the practice standards. We feel sure that you will agree that it's incumbent on individuals performing such an important and sensitive role to operate to clear, consistent and public standards.

This initial draft derives from some intensive work with a group of safeguarders from a range of backgrounds. Further work will commence around Easter to develop SMART (specific, measurable, achievable, realistic and time-limited) measures so the standards framework can be understood and applied in practical terms.

We would welcome your comments on the range, scope, order and content of this draft.

Please send any comments to the CHILDREN 1<sup>ST</sup> mailbox. Email responses would be particularly welcome by 8 May: [safeguarderspanel@children1st.org.uk](mailto:safeguarderspanel@children1st.org.uk)

### **Next Steps and Related Activity**

In the phase between now and June, we will engage with safeguarders and with system partners to further shape the standards and other supports.

Standards will sit within a broader structure of development and accountability. At the time of standards implementation, we also hope, having worked with safeguarders, to announce an exciting package of augmented support on training and practice development.

The intention is for the standards to be finalised and applicable from end June 2015. In that way they can be applied during the process of consideration of the reappointment of safeguarders in the period to June 2016. A significant tranche of experienced safeguarders who transferred from the previous local authority panels are due to be considered for reappointment at that time.

The Scottish Government will be reviewing the extant regulations to ensure that they offer the right framework to support the expectations associated with the final standards.

If there is a need to revisit certain aspects of the current regulations, we will of course consult on any proposals later this year.

As you'd expect, we will also set up review mechanisms for the standards. To retain support and legitimacy, there has to be a way for the Standards to be refreshed to ensure that they always provide the best touchstone for your important role.

The Standards will be for the use of safeguarders and for children and families, representatives from services and agencies and others, to help understand the role and the way the role should be experienced in practice.

We do hope that these are welcome developments. We look forward to hearing your comments and perspectives in the coming weeks.

Thank you in anticipation of your valued comments - but more importantly, thank you for your continued work with and for Scotland's children.

Yours sincerely



**Robert Marshall**  
Care and Justice Division



**Linda Jardine**  
Assistant Director (National) – CHILDREN 1<sup>ST</sup>

## **Case study - Police**

3 months after Ann has stopped attending school the police receive a call from a family member saying that the child has not been seen for 3 months.

Police reports indicate that boyfriend has a violent past history and allegations of threats to children.

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

Written by Susanne Goetzold, Social Worker, September 2015

## Key Messages

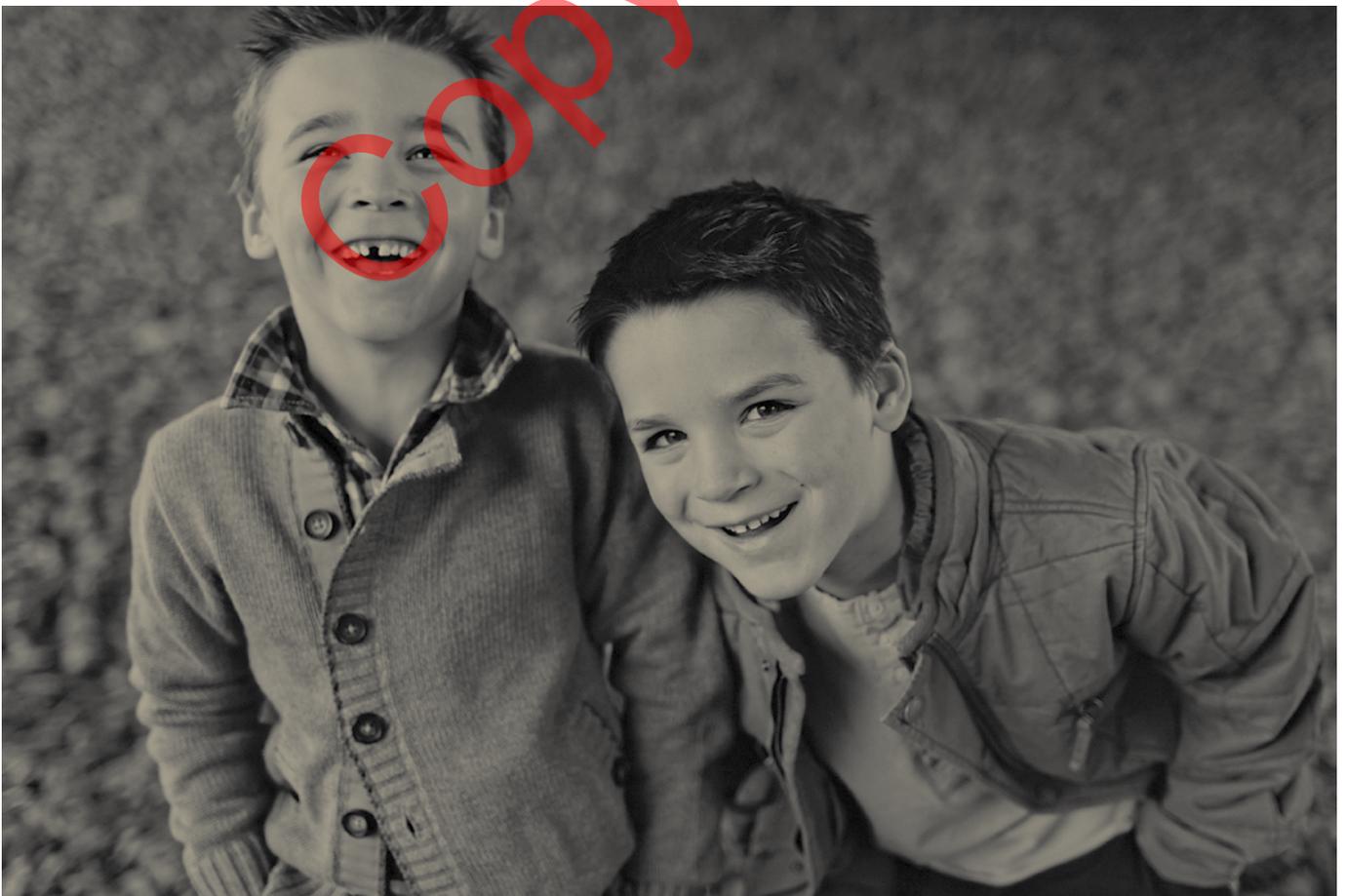
Research shows that children and young people who are jointly interviewed in relation to child protection concerns provide best evidence when they are enabled to access free-recall memory and are encouraged to provide a free narrative account of their experiences.

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 <sup>[1]</sup>. However, research shows that interviewers consistently struggle with the open questioning style required in joint investigative interviews.



# Introduction

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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)<sup>[1]</sup> 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)<sup>[1]</sup>.
- 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)<sup>[1]</sup>. 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?

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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 <sup>[4]</sup>. The events attracted considerable media attention, with links being made to the Cleveland Inquiry <sup>[2]</sup> and events in Rochdale in 1990 <sup>[3]</sup>. Lord Clyde's report into the removal of children from Orkney <sup>[4]</sup> 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 <sup>[5]</sup> 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) <sup>[6]</sup>.

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

and closed questions" <sup>[9]</sup> 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) <sup>[10]</sup> that referred to research <sup>[11]</sup> which examined police officers' adherence to Scottish Executive Guidance published in 2003 <sup>[5]</sup>. 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 <sup>[11]</sup> 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 <sup>[12]</sup>. 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 <sup>[13]</sup>.

## What does the research say?

Research <sup>[14, 15, 16, 17]</sup> 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.

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### 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<sup>[18, 11, 19, 20]</sup>. 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"<sup>[21]</sup>. Recognition memory is also easily influenced by interviewer bias<sup>[14]</sup>.

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<sup>[22, 23]</sup>. 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)<sup>[24]</sup> 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)<sup>[1]</sup>.

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<sup>[25, 26, 27]</sup>.

### 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<sup>[1]</sup>. 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<sup>[28, 29, 30, 18, 31]</sup>. Larson and Lamb (2009, p.3)<sup>[14]</sup> 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

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with interviewers (whether or not the children are sure of their response)". This is also supported by Lamb et.al. (2007, p.1203) <sup>[16]</sup> 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) <sup>[1]</sup> 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 <sup>[32]</sup>.

Even very young children are able to benefit from open-ended prompts. Ghetti et al (2002) <sup>[17]</sup> 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) <sup>[28]</sup> 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 <sup>[17, 14, 33]</sup>.

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) <sup>[32]</sup> 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 <sup>[34]</sup>. In child protection investigations "the joint approach aims to reduce the number of times a child is interviewed" (Scottish Government, 2011, p.40) <sup>[1]</sup>. However, the research by Ghetti et al (2002) <sup>[17]</sup> above is also supported by findings by Powell and Thomson, (2002, p.79) <sup>[35]</sup>, 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 <sup>[1]</sup> to approach this issue on a flexible and child-centred basis.

While research generally supports that best evidence is obtained from free-recall memory <sup>[14, 36, 17]</sup>, 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 <sup>[1]</sup>, or the structured protocol, developed by the National Institute of Child Health and Human Development <sup>[37]</sup>

### **The phased approach**

As outlined above, the 2011 Guidance <sup>[1]</sup> 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) <sup>[13]</sup>.

Throughout the interview, interviewers are expected to use their professional interview skills, as taught during the Joint Investigative Interview Training <sup>[8]</sup>. 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) <sup>[38]</sup> found that "children who were given practice interviews reported

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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)<sup>[1]</sup>.

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)<sup>[21]</sup> 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)<sup>[21]</sup> further found that the use of the structured protocol developed by the National Institute of Child Health and Human Development<sup>[31]</sup> 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)<sup>[31]</sup>. 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<sup>[37, 39]</sup>.

There is general agreement that the use of a structured protocol needs to be supported by ongoing supervision and feedback to interviewers<sup>[40, 39]</sup>. Sternberg et al (1999)<sup>[21]</sup> 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)<sup>[11]</sup> found that, in spite of respondents’ self-evaluations indicating a high level of confidence in their own compliance with the 2003 Guidance<sup>[5]</sup>, an analysis of their answers raised concerns about interview practice and application of this guidance.

Research<sup>[11, 41, 16, 42]</sup> 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<sup>[43, 42]</sup>. La Rooy et al (2011, p. 6)<sup>[11]</sup> 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<sup>[1]</sup>, which clarified the benefits of practice interviews to a greater extent. However, subsequent research by Goetzold (2015)<sup>[42]</sup> 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.

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Aldridge and Cameron (1999)<sup>[29]</sup> found that interviewers did not use open prompts sufficiently. These findings are also supported by Warren et al (1999)<sup>[44]</sup> and mirror comments by the Scottish Executive (2007)<sup>[6]</sup>. In an analysis of 72 interviews carried out by police officers in Sweden, Cederborg et al (2000)<sup>[41]</sup> 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)<sup>[16]</sup>, 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<sup>[1]</sup>.

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)<sup>[42]</sup>. Social workers, for example, may need to "unlearn" the therapeutic interview styles taught on qualifying courses in order to conduct forensic interviews with children<sup>[39]</sup>. Goetzold (2015)<sup>[42]</sup> 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)<sup>[20]</sup> also found that, while police officers were aware of the requirements of the 2011 Guidance<sup>[1]</sup>, 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<sup>[1]</sup>. 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<sup>[39]</sup>.

Research has also shown that some interviewers do not believe that specific evidential requirements can be obtained through free narrative and open prompts/questions<sup>[26, 45]</sup>. 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<sup>[42]</sup>.

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<sup>[20]</sup>. However, there have been numerous examples of very young children contributing extensive evidence in court. Marchant (2013)<sup>[46]</sup> 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<sup>[1]</sup>, 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<sup>[19]</sup> 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

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The 2011 Guidance<sup>[1]</sup> 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<sup>[1]</sup> 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<sup>[1]</sup> 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)<sup>[47]</sup>. 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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