

**Interviews with
Vulnerable,
Intimidated and
Significant Witnesses
2007**

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Section A Policy Guidance

1.0 Aims and Objectives

- 1.1 This policy will standardise the operating procedures with regards to the interviewing of vulnerable, intimidated and significant witnesses.
- 1.2 The CPS and ACPO Revised Guidance (2007) on Visually Recorded Interviews with Vulnerable and Significant Witnesses, attached as Appendix A, and Appendices B, C and D will be adopted as the Standard Operating Procedures for the visual recording of interviews with intimidated, vulnerable and significant witnesses.
- 1.3 This policy will ensure that early consultation with CPS regarding all forms of witness interviews is considered at the outset of any enquiry.

2.0 Definitions

- 2.1 Intimidated witnesses are defined by section 17 of the Youth Justice and Criminal Evidence Act 1999, which states:

“17(1) For the purposes of this Chapter a witness in criminal proceedings (other than the accused) is eligible for assistance by virtue of this subsection if the court is satisfied that the quality of evidence given by the witness is likely to be diminished by reason of fear or distress on the part of the witness in connection with testifying in the proceedings.

17(2) In determining whether a witness falls within subsection (1) the court MUST take into account, in particular:-

- (a) the nature and alleged circumstances of the offence to which the proceedings relate;*
- (b) the age of the witness;*
- (c) such of the following matters as appear to the court to be relevant, namely:-*
 - (i) the social and cultural background and ethnic origins of the witness,*
 - (ii) the domestic and employment circumstances of the witness, and*
 - (iii) any religious beliefs or political opinions of the witness;*
- (d) any behaviour towards the witness on the part of:-*
 - (i) the accused;*
 - (ii) members of the family or associates of the accused, or*
 - (iii) any other person who is likely to be an accused or a witness in the proceedings.*

17(3) In determining that question the court MUST in addition consider any views expressed by the witness

17(4) Where the complainant in respect of a sexual offence is a witness in proceedings relating to that offence (or to that offence and any other offence), the witness is eligible for assistance in relation to those proceedings by virtue of this subsection unless the witness has informed the court of the witness' wish not to be so eligible by virtue of this subsection."

- 2.2 Vulnerable witnesses are defined by section 16 of the Youth Justice and Criminal Evidence Act 1999 as:

Children under 17 years at the time of the hearing and people whose quality of evidence is likely to be diminished because:

- (a) they are suffering from a mental disorder (as defined by the Mental Health Act 1983) or*
- (b) they have a significant impairment of intelligence and social functioning or*
- (c) they have a physical disability or they are suffering from a physical disorder*

- 2.3 Significant witnesses are defined as:

- (i) those who have claimed or have witnesses visually or otherwise an indictable offence, part of such offence or events closely connected with it (including any incriminating comments made by the suspected offender, either before or after the offence);*
- (ii) stand in a particular relationship to the victim or have a central position in an investigation into an indictable offence*

- 2.4 Further clarification of the definition of vulnerable, intimidated and significant witnesses is provided at Appendix B.

3.0 Background

- 3.1 Section 17 of the Youth Justice and Criminal Evidence Act 1999 has not been implemented in its entirety and the date for this is as yet unknown.

- 3.2 Section 17(4) of the Youth Justice and Criminal Evidence Act 1999 was implemented on 1st September 2007.

- 3.3 Under section 16 of the Youth Justice and Criminal Evidence Act 1999 visually recorded interviews with vulnerable witnesses can be used as evidence-in-chief following an application by the CPS.

- 3.4 Currently there is no statutory provision for visually recorded interviews with significant witnesses to be used as evidence-in-chief. This provision will become available when section 137 of the Criminal Justice Act 2003 is implemented. The date for this is as yet unknown.

4.0 Process

4.1 Appendices A to D of this policy provide comprehensive guidance in respect of the interviewing of vulnerable, intimidated and significant witnesses.

4.2 Section 17(4) of the Youth Justice and Criminal Evidence Act 1999

4.2.1 The processes detailed under this section of the policy will also be adopted for the remainder of section 17 when it is implemented.

4.2.2 Section 17(4) designates complainants in respect of sexual offences as 'intimidated' per se.

4.2.3 This section affords the prosecution team the ability to have the visually recorded interview of the witness played at Crown Court as evidence-in-chief.

4.2.4 Sexual offences are defined under Part 1 of the Sexual Offences Act 2003 and the Serious Sexual Offences Standard Operating Procedure states that:

"Whilst it is acknowledged that all sexual offences are serious, certain offences are deemed more serious by virtue of their effect on the victim and their abhorrence by society.

For the purposes of the Standard Operating Procedure the following sexual offences against either male or female shall be deemed to be a serious sexual offence:

- i) Rape*
- ii) Sexual assault by penetration*
- iii) Sexual assault where the assault is particularly serious or features of the offence are aggravated*
- iv) Causing a person to engage in sexual activity without consent*
- v) Any offence of a sexual nature deemed especially serious by the investigating officer*
- vi) Any attempt of the above."*

4.2.5 Any offence whereby the investigation commenced on or after 1st September 2007 that fits the criteria at 4.2.3 is now suitable for video evidence-in-chief for the complainant.

4.2.6 Video interviewing will be carried out by trained Action for Justice (A4J) officers or other suitably qualified staff. Specially Trained Officers (STOs) will ordinarily be present during the interview process and complete the record of video interviewing (ROVI) as per guidelines at Appendix D.

4.2.7 All tier 3 and tier 5 interviewers will be trained to use the force visual recording equipment.

4.2.8 The victim will be assessed to determine whether or not video interviewing will enhance the evidence they are able to give in terms of quality, coherence and accuracy. It must also be borne in mind

that the use of video interviewing as evidence-in-chief may encourage complainants to continue with their complaint. In addition consideration must be given to the enhanced potential for conviction that the appearance of the victim provides and that other special measures are also available.

- 4.2.9 The use of this procedure should be considered to be of paramount importance in the following cases:
- (a) All cases where the complainant is under 17 years at the time of the hearing
 - (b) Where the complainant has significant learning difficulties or mental health issues
 - (c) Where an interpreter or Language Service Professional is being used
 - (d) Where there has been extreme trauma or violence
 - (e) Where it is clear that the victim is unwilling at the outset to attend court and this method will enhance the prospects of prosecution
 - (f) Any other case where it is believed by the authorising officer that the evidence will be significantly enhanced or that it is necessary for the victim's care.
- 4.2.10 The Authorising Officer will be a BCU Detective Inspector or Detective Chief Inspector.

4.3 Use of Intermediaries in respect of section 16

- 4.3.1 As of 1st October 2007, the use of intermediaries in vulnerable witness interviews (section 16) became available as a special measure under section 29 of the Youth Justice and Criminal Evidence Act 1999.
- 4.3.2 Intermediaries can be used in section 16 cases where their assistance is likely to improve the quality of evidence.
- 4.3.3 Registered intermediaries are professional people who have developed skills and experience necessary to communicate with vulnerable people. They receive training and are then assessed by a senior judge.
- 4.3.4 The intermediaries register is managed and held by the Home Office. Contact with the Home Office will be made by the trained interviewed officers as and when the circumstances arise.

Section B Policy Administration

1.0 Qualifying Conditions

- 1.1 It should not be assumed that print copies of this policy document are current; please refer to the policy database for the most recent definitive version.
- 1.2 This policy provides a framework of guidance to all Constabulary personnel and its application has been assessed by the author as being appropriate in most anticipated situations; where, in exceptional circumstances, it is deemed necessary to override the policy, members of staff may be asked to discuss their actions and to make recommendations to the author for appropriate changes to be made to the policy.

2.0 Scope

- 2.1 This policy applies to all officers and staff involved in the investigation of crime.

3.0 Accountabilities

- 3.1 This policy is subject to the approval of the Detective Chief Superintendent Russell Wate and the Force Delivery Board
- 3.2 The Head of Major Crime is responsible for ensuring that the policy is reviewed on a regular basis and updated as required. The next review of this policy will occur in November 2008

4.0 Motivation

- 4.1 This policy and the attached appendices provides set systems and processes for dealing with vulnerable, intimidated and significant witnesses. This allows such witnesses to be appropriately managed and supported. In the case of vulnerable and intimidated witnesses it allows the video interview to be played in court as evidence-in-chief where appropriate. In respect of significant witnesses it sets in place a system and process whereby the retrieval of evidence maintains the highest levels of integrity and enables the evidence to be placed in a section 9 format at the beginning of an enquiry. It provides interviews in evidential format to the senior investigating officer and CPS at the earliest opportunity.
- 4.2 This policy ensures that Cambridgeshire Constabulary complies with the following legislation:
- Section 16 of the Youth Justice and Criminal Evidence Act 1999
 - Section 17 of the Youth Justice and Criminal Evidence Act 1999
 - Section 137 of the Criminal Justice Act 2003

NOT PROTECTIVELY MARKED

- 4.3 This policy ensure that Cambridgeshire Constabulary complies with current guidance and best practice in relation to the interviewing of vulnerable, intimidated and significant witnesses.

5.0 Associated Procedures

- 5.1 Implementation of this policy is supported by Appendices A to d attached.
- 5.2 This policy should also be read in conjunction with the Investigation of Serious Sexual Offences Policy and Procedures.

6.0 Related Documents

- 6.1 Please refer to Appendices A to D for related documents.

7.0 Co-operation

- 7.1 This policy requires the co-operation of the CPS to fully implement
- 7.2 Implementation of this policy also requires the support of the Home Office (Intermediaries Register), Interpreters and Language Service Professionals and the Judiciary.

EQUALITY IMPACT ASSESSMENT TEMPLATE

FOR NEW AND REVISED STRATEGY, POLICY OR PROCEDURAL GUIDANCE

Part 'B'

This section should be used to *formally* record the findings and results of your assessment. This section will normally be published as part of the Constabulary's policies publication scheme

Title of Policy Guidance/ Procedure	Standard Operating Procedure for Interviews with Vulnerable , Intimidated and significant Witnesses		
Name of Author	Detective Superintendent Birch		
Date of creation/review	----- / ----- / 200 -----	Version No.	
PLEASE OUTLINE THE RESULTS OF YOUR IMPACT ASSESSMENT BELOW			
B1	What are the aims and proposed outcomes of your policy guidance/procedure?		
<p>Standardise our approach to dealing with all forms of Witnesses whilst taking due notice of recent legislation and National Guidance changes.</p>			
B2	What research has been undertaken?		
<ol style="list-style-type: none"> 1. Research CPS/ACPO Guidance 2. Research NPIA Guidance 3. Research Six Counties Guidance 			
B3	What consultation has taken place? (<i>who has been consulted, and by what method?</i>)		
(a)	Internally within the Constabulary		
<ol style="list-style-type: none"> 1. Training Dept 2. Crime Managers 3. Head of PPU Sexual Offences 4. All Teir 5 Interviewers 5. All Det. Superintendent SIO's 6. A4J Supervisors & Units 			
(b)	Externally		
<ol style="list-style-type: none"> 1. ACPO guidance 2. Other forces – 6 Counties 3. CPS – Locally & Nationally Home Office – Witness Intermediaries 			
B4	What feedback was received?		
<p>Very positive feedback. Minor amendments made to report, to reflect feedback.</p>			

(ii) Relating to the **DISABILITY DISCRIMINATION ACT:**

B11	How can this guidance help to promote equality of opportunity between disabled and other people?
As B8, 9, 10	
In relation to this duty, do you consider its potential impact to be HIGH <input type="checkbox"/> MEDIUM <input type="checkbox"/> LOW <input checked="" type="checkbox"/>	
B12	How can this guidance help to eliminate unlawful discrimination that is unlawful under the DDA?
As B8, 9, 10	
In relation to this duty, do you consider its potential impact to be HIGH <input type="checkbox"/> MEDIUM <input type="checkbox"/> LOW <input checked="" type="checkbox"/>	
B13	How can this guidance help to eliminate unlawful harassment of disabled people that is related to their disability?
As B8, 9, 10	
In relation to this duty, do you consider its potential impact to be HIGH <input type="checkbox"/> MEDIUM <input type="checkbox"/> LOW <input checked="" type="checkbox"/>	
B14	How can this guidance help to promote positive attitudes towards disabled people?
As B8, 9, 10	
In relation to this duty, do you consider its potential impact to be HIGH <input type="checkbox"/> MEDIUM <input type="checkbox"/> LOW <input checked="" type="checkbox"/>	
B15	How can this guidance encourage participation by disabled people in public life?
As B8, 9, 10	
In relation to this duty, do you consider its potential impact to be HIGH <input type="checkbox"/> MEDIUM <input type="checkbox"/> LOW <input checked="" type="checkbox"/>	
B16	How can this guidance take steps to meet disabled people's needs even if this requires more favourable treatment?
As B8, 9, 10	
In relation to this duty, do you consider its potential impact to be HIGH <input type="checkbox"/> MEDIUM <input type="checkbox"/> LOW <input checked="" type="checkbox"/>	

(iii) Relating to the **GENDER EQUALITY DUTY:**

B17	How can this guidance help to eliminate unlawful discrimination and harassment between men and women?
As B8, 9, 10	
In relation to this duty, do you consider its potential impact to be HIGH <input type="checkbox"/> MEDIUM <input type="checkbox"/> LOW <input checked="" type="checkbox"/>	
B18	How can this guidance help to promote equality of opportunity between men and women?
As B8, 9, 10	
In relation to this duty, do you consider its potential impact to be HIGH <input type="checkbox"/> MEDIUM <input type="checkbox"/> LOW <input checked="" type="checkbox"/>	

CPS AND ACPO REVISED GUIDANCE (2007)

VIDEO RECORDING INTERVIEWS WITH VULNERABLE AND SIGNIFICANT WITNESSES

1. Introduction

The purpose of this paper is to **revise and replace** the advice set out in the November 2002 ACPO document entitled 'Guidance on the Recording of Interviews with Vulnerable and Significant Witnesses'. It has been necessary to conduct this revision to take account of developments in practice and to ensure consistency with the revised *Achieving Best Evidence* (ABE) document that is due to be published by the Home Office in spring 2007.

This guidance has been agreed by the ACPO Investigative Interviewing Steering Group and the Crown Prosecution Service.

The starting point will always be for the SIO/investigating officer to clearly identify the type of witness being dealt with. This decision should be documented in the policy file (summarised in Appendix A) and will determine:

- how the evidence should be captured;
- the skill level of the interviewer;
- the product of the interview pre-charge (ROVI);
- the product of the interview post charge (ROVI / transcript);
- capability of being used as evidence-in-chief;
- eligibility for special measures.

To further assist witness definitions are described in Appendix B and methods of processing video recording interviews at Appendix C. Following interview a ROVI (Record of Video Interview) will be completed and Appendix D contains guidance in respect of how it should be compiled by the police interviewer.

A ROVI is a revised version of the interview summary formerly known as an index that police have been required to compile since the *Memorandum of Good Practice* was published in 1992 (Annex K of the *Memorandum*, Annex M of the current ABE) although until now there was no guidance on what it should contain.

2. Vulnerable Witnesses

Vulnerable witnesses are defined by Section 16 of the Youth Justice and Criminal Evidence Act, 1999 as:

- Children under 17; and

- People whose quality of evidence is likely to be diminished because:
 - They are suffering from a mental disorder (as defined by the Mental Health Act 1983); or
 - Have a significant impairment of intelligence and social functioning; or
 - Have a physical disability or are suffering from a physical disorder.

The reference to the quality of a witness' evidence in this Section relate to its completeness, coherence and accuracy. "Coherence" refers to a witness' ability in giving evidence to answer questions in a way that can be understood individually and collectively.

This paper does not deal with 'intimidated' witnesses as defined by Section 17 of the Youth Justice and Criminal Evidence Act 1999 because video-recorded evidence-in-chief has not been implemented for them yet (although they are currently eligible for a number of other special measures). It is anticipated that some intimidated witnesses will be eligible for video-recorded evidence-in-chief later this year (2007).

3. Post-Interview Process

The post-interview process for video-recorded interviews with vulnerable witnesses is as follows:

- a) The police compile a ROVI. Appendix D sets out more detailed guidance about the functions and content of a ROVI. Dependant on the circumstances the SIO still has the discretion to transcribe the interview at an early stage in the investigation.
- b) Charging decisions by the duty prosecutor should be based on the ROVI and/or the transcript if done, unless impractical and a viewing of the video-recording. Similarly this also applies to case management prior to a plea being entered:
 - i. Where a 'not guilty' plea is entered, the CPS is responsible for sending the recording to one of their Video Transcription Units for transcription (unless the recording has already been transcribed by police for an investigative purpose such as inputting into HOLMES).
 - ii. Where a 'guilty' plea is entered or the case is not proceeded with, the recording will not be transcribed (unless already transcribed by police for an investigative purpose).
- c) The CPS makes an application to play the video-recording as evidence-in-chief under Section 27 of the Youth Justice and Criminal Evidence Act 1999 and serve the transcript on the defence.
- d) If the application under Section 27 is successful, the video-recording is played as evidence-in-chief. If the application is unsuccessful, the witness should be lead through their evidence-in-chief using the transcript (consideration may be given to applying for the witness to give evidence via live TV link under Section 24 of the Youth Justice and Criminal Evidence Act 1999).
- e) The CPS Video Transcription Unit(s) (VTU) normal turnaround time for production of a transcript is 7 working days (9 calendar days). It is important to note that if the circumstance of the case change and a transcript is no longer required the CPS prosecutor must notify the VTU immediately of the cancellation to avoid any unnecessary work.

This process will also be applicable to other groups of witnesses when implemented for video-recorded evidence-in-chief (notably, intimidated witnesses Section 17 of the Youth Justice

and Criminal Evidence Act 1999 and significant witnesses Section 137 of the Criminal Justice Act 2003).

4. Significant Witnesses

Significant witnesses will be currently defined as follows in the revised ABE:

Significant witnesses, sometimes referred to as 'key' witnesses, are those who:

- Have or claim to have witnessed, visually or otherwise, an indictable offence, part of such an offence or events closely connected with it (including any incriminating comments made by the suspected offender either before or after the offence).
- Stand in a particular relationship to the victim or have a central position in an investigation into an indictable offence.

In these circumstances, the purpose of the recording is primarily one of demonstrating the integrity of the way in which the evidence has been gathered. **Currently there is no statutory provision for video recordings of interviews with significant witnesses to be played as evidence-in-chief until Section 137 Criminal Justice Act, 2003 is implemented.** However a fundamental difference exists between the current ACPO definition and Section 137. ACPO do not specify a timescale for when the alleged offence / events occurred whereas the Section 137 requires that the video interview should be conducted soon after the commission of the offence / event when events are fresh in the witness's memory thereby providing an early and reliable account. See Appendix B for the full definition for a Section 137 of the Criminal Justice Act 2003 witness.

Therefore to be consistent with these principles interviews should only be recorded where the process will add value to the investigation. Again, once a person has been identified as a significant witness the SIO will consider whether or not to video record the interview and document the decision in the policy log. Operational constraints such as availability of video suites or the number of significant witnesses will influence that decision.

Where multiple witnesses are involved, it will be necessary to prioritise the number of interviews that are video-recorded according to the resources that are available. Such a decision should be made by the senior officer in charge of the investigation, in consultation with an interview adviser where appointed (Tier 5 of the ACPO Investigative Interviewing Strategy). A record should be made of the decision and the rationale underpinning it, including the criteria used for determining which interviewees were visually recorded.

Post-Interview Process

As included in the revised ABE there are two ways in which the testimony on a video-recorded interview with a significant witness may be adduced as evidence:

Option 1: Brief Written Statement from the Witness followed by the Production of a Transcript of the Video Recording as an Exhibit

- a) The witness should be invited to make a *brief* Section 9 Criminal Justice Act, 1967 statement (MG11) as soon after the interview as possible, while what was said is fresh in their memory, confirming that what they said during the interview is an accurate account of their evidence. *This statement should not include the detail of what was said during the interview because it will subsequently be reflected in the transcript.*
- b) The police compile a Record of Video Interview (ROVI). Dependant on the circumstances the SIO still has the discretion to transcribe the interview at an early stage in the investigation.

- c) Case management and charging decisions should be based on the ROVI and/or the transcript if done, unless impractical, and a viewing of the video-recording prior to a plea being entered:
 - i) Where a 'not guilty' plea is entered, the police transcribe the recording (unless it has already been transcribed for investigative purposes).
 - ii) Where a 'guilty' plea is entered or the case is not proceeded with, the recording will not be transcribed (unless it has already been transcribed for investigative purposes).
- d) The interviewer should check the transcript for accuracy against the recording and produce it as an exhibit in a MG11.
- e) The witness' and the interviewer's MG11s, together with the transcript, should be adduced as evidence. The existence of the recording(s) should be revealed to the Crown Prosecution Service (CPS) as 'unused material' under the terms of the Criminal Procedure and Investigations Act, 1996.

This option represents the **recommended** method for the following reasons:

- Provides for effective investigation and case management;
- Reduces the risk of inconsistent statements (MG11);
- Assists the witness to refresh their memory.

Option 2: Full Written Statement of the Witness' Evidence derived from the Video-Recording

- a) A full Criminal Justice Act statement (MG11) should be prepared from the video-recording as soon as possible, while what was said is still fresh in the witness' memory. It is essential to review the recording prior to preparing the statement. There is no need to have the witness present during this process.
- b) The police compile a Record of Video Interview (ROVI).
- c) The witness should be asked to review the MG11 as soon as possible and invited to make any corrections, alterations or additions to it that they consider necessary. It may also in appropriate circumstances be necessary for the witness to review the working copy video to mitigate any inconsistencies in the record. Having agreed its content, the witness should be invited to sign their MG11. This process should be video-recorded where the witness wants to make substantial modifications to their account. Minor changes should be noted on the MG11 in the usual way.
- d) The witness' MG11 should be adduced as evidence. The existence of the video-recording should be revealed to the CPS as unused material.

Option 1 represents the ACPO recommended method. It is accepted that it may be necessary to use Option 2 where the resources needed to transcribe a recording are limited.

The decision about which of these options to adopt is one that will need to be made at the planning stage of an interview.

APPENDIX A

CAPTURING VULNERABLE, INTIMIDATED AND SIGNIFICANT WITNESS EVIDENCE

Type and age of witness	Eligibility grounds <i>(Refer to full definition)</i>	Court	Offence type	Visually record	Eligible as EIC	ABE interview required	Product of interview (Pre-charge)	Product of interview (Post-charge)	Eligibility Special Measures
Vulnerable Child U17years	Sec 16,1(a) YJCEA 1999 - "in need of special protection" Sec 35 (3)(a)(b)(c)(d) sexual, kidnapping, cruelty and violence offences	Magistrates' and Crown Court <i>(From 24/07/02)</i>	IO and EWO <i>(Sex/Violence)</i>	Yes	Yes <i>(Presumption)</i>	Yes	ROVI <i>(A transcript may be produced by police at the discretion of an SIO for investigative purposes)</i>	Transcript <i>(Normally use ROVI up to entry of a not guilty plea. CPS responsible for producing transcript)</i>	Yes <i>(Ensure details are recorded on MG2 and reverse of MG11)</i>
Vulnerable All other youths U17years	Maximise quality of evidence Sec 16, YJCEA 1999	Crown Court only <i>(From 24/07/02) (will include Magistrates' WHEN IMPLEMENTED)</i>	IO and EWO	Yes	Yes	Yes	ROVI <i>(A transcript may be produced by police at the discretion of an SIO for investigative purposes)</i>	Transcript <i>(Normally use ROVI up to entry of a not guilty plea. CPS responsible for producing transcript)</i>	Yes <i>(Ensure details are recorded on MG2 and reverse of MG11)</i>
Vulnerable Adult 17years and over	Maximise quality of evidence Sec 16, (1)(b) YJCEA 1999 - (2)(a) Incapacity suffering from mental disorder, significant impairment of intelligence and social functioning (2)(b) physical disorder/disability impacting on communication	Crown Court only <i>(From 24/07/02) (will include Magistrates' WHEN IMPLEMENTED)</i>	IO and EWO	Yes	Yes	Yes	ROVI <i>(A transcript may be produced by police at the discretion of an SIO for investigative purposes)</i>	Transcript <i>(Normally use ROVI up to entry of a not guilty plea. CPS responsible for producing transcript)</i>	Yes <i>(Ensure details are recorded on MG2 and reverse of MG11)</i>

Type and age of witness	Eligibility grounds (Refer to full definition)	Court	Offence type	Visually record	Eligible as EIC	ABE interview required	Product of interview (Pre-charge)	Product of interview (Post-charge)	Eligibility Special Measures
Intimidated No age limit	Maximise quality of evidence Sec 17,(1) YJCEA 1999 - Fear or distress of testifying. (2)(a) Determined by nature and alleged circs of offence, (2)(b) age of witness (2)(c) witness social and cultural background, ethnic origins, domestic and employment circs, religious beliefs or political opinions (2)(d) behaviour towards witness by accused family or associates of accused or other person likely to be an accused or witness.	Magistrates' and Crown Court (WHEN IMPLEMENTED)	IO and EWO	Yes	Yes	Yes	ROVI (A transcript may be produced by police at the discretion of an SIO for investigative purposes)	Transcript (Normally use ROVI up to entry of a not guilty plea. CPS responsible for producing transcript)	Yes (Ensure details are recorded on MG2 and reverse of MG11)
Significant No age limit	Current ACPO Policy - Determined by and recorded at SIO's discretion for investigative purposes (eye witness or person with particular relationship to deceased or someone in the enquiry)	Magistrates' and Crown Court	IO and EWO (Normally restricted to serious sex and violence offences)	Yes	No	Yes	ROVI (A transcript may be produced by police at the discretion of an SIO for investigative purposes)	Transcript (Normally use ROVI up to entry of a not guilty plea. CPS responsible for producing transcript)	No
Significant No age limit	Events fresh in person's memory Sec 137, 1(d) CJA 2003. Witness's recollection significantly better when video recorded rather than admitted as oral evidence (3)(b)(i) and in the interests of justice (3)(b)(ii)	Magistrates' and Crown Court (WHEN IMPLEMENTED)	IO and prescribed EWO	Yes	Yes	Yes	ROVI (A transcript may be produced by police at the discretion of an SIO for investigative purposes)	Transcript (Normally use ROVI up to entry of a not guilty plea. CPS responsible for producing transcript)	Yes

Appendix B

WITNESS DEFINITIONS

Significant Witnesses, Section 137 Criminal Justice Act 2003

(Not yet implemented)

The section permits a video recording of an interview with a witness (other than the defendant), or a part of such a recording, to be admitted as evidence in chief of the witness in a wider range of circumstances than is presently the case. Subsection (1) provides that the court can authorise such a video recording to replace the evidence-in-chief of a witness provided that:

- The person claims to be a witness (visually or any other way) to the offence (or part of it) or to events closely connected to the offence;
- The video recording of the statement was made at the time when events were fresh in the witness's memory; and
- The alleged offence can only be tried in the Crown Court or is an either-way offence prescribed by Order of the Secretary of State.

If the recording satisfies these requirements, the court may admit the recording provided that:

- The witness's recollection of events is likely to be significantly better at the time he gave the recorded account than by the time of the trial; and
- It is in the interests of justice to admit the recording, having regard to whether the recording is an early and reliable account from the witness, whether the quality is adequate, and any views which the witness may have about using the recording for this purpose.

Under subsection (2) evidence given by a video recording shall be treated as if it was given orally in court in the usual way, providing the witness asserts the truth of it.

Intimidated Witnesses

'Intimidated' witnesses are defined by Section 17 of the Youth Justice and Criminal Evidence Act, 1999 as witnesses whose quality of evidence is likely to be diminished by reason of fear or distress in respect of testifying in criminal proceedings.

In determining whether a witness falls within the scope of Section 17 the court must take account of:

- i. The nature and alleged circumstances of the offence to which the proceedings relate;
- ii. The age of the witness;
- iii. Such of the following matters as appear to the court to be relevant, namely:
 - i. the social and cultural background and ethnic origins of the witness;
 - ii. the domestic and employment circumstances of the witness; and
 - iii. any religious beliefs or political opinions of the witness;

- iv. Any behaviour towards the witness on the part of:
 - i. the accused;
 - ii. members of the family or associates of the accused; or
 - iii. any other person who is likely to be an accused or a witness in the proceedings.

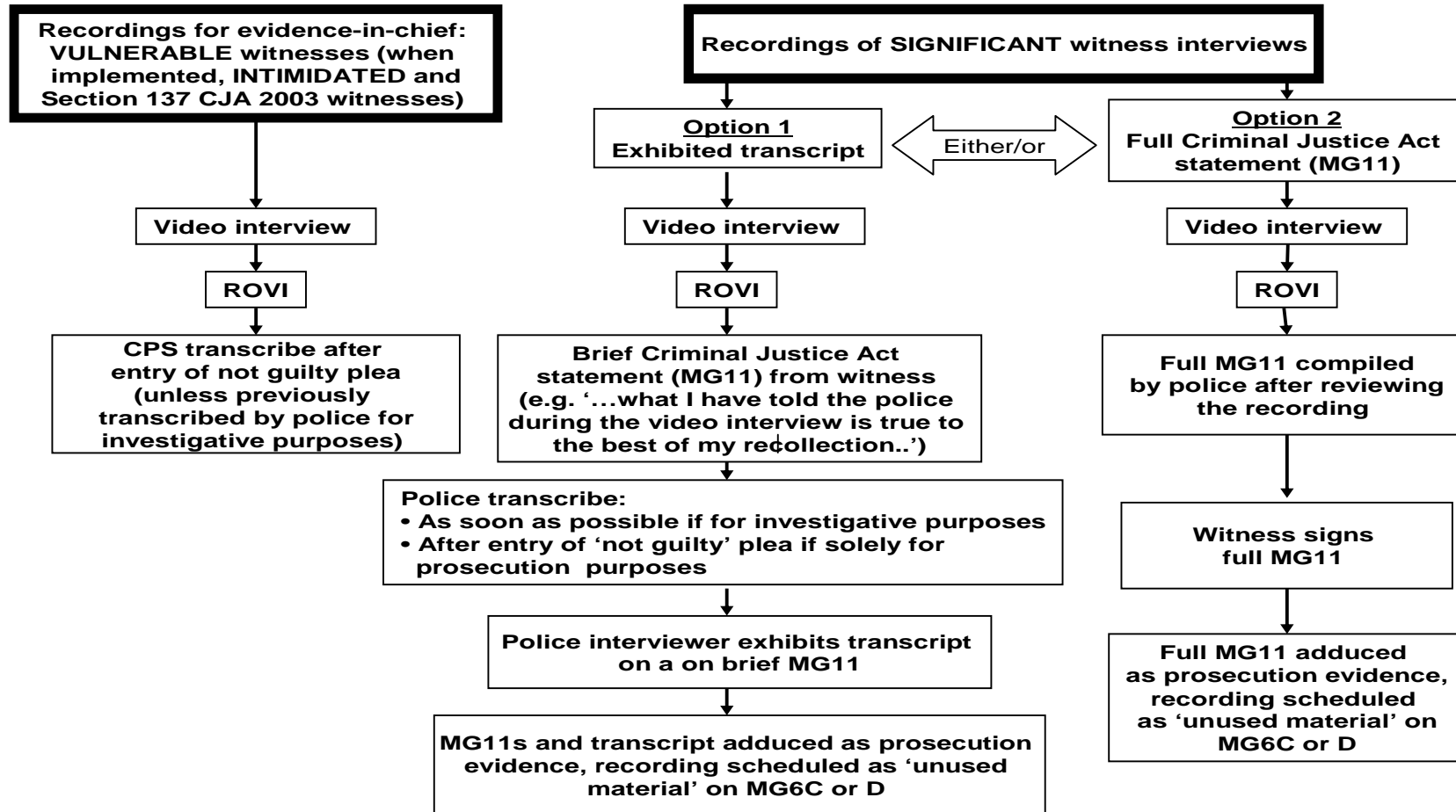
Section 17(4) of the Youth Justice and Criminal Evidence Act, 1999 designates complainants in respect of sexual offences as 'intimidated' witnesses per se.

Vulnerable Witnesses: A Police Service Guide (Home Office, 2002) interprets Section 17 to include:

- Individuals who have become vulnerable due to circumstances, including:
 - Those who have experienced domestic violence;
 - Those who have experienced past or repeat harassment or bullying;
 - Those who self neglect and self harm;
 - Due to the nature of the offence (e.g. sexual offences, rape, witnessing murder, where this involves allegations against carers/professionals);
 - Racially aggravated offences;
 - The racial or ethnic origin or religious beliefs of the witness, which may include refugees and asylum seekers;
 - The domestic, social and employment circumstances of the witness;
 - Any religious beliefs or political opinions of the witness;
 - Those who are eligible due to their age, including the elderly and frail.
- Individuals who are likely to be or who have been subject to intimidation due to:
 - The behaviour of the defendant, his family or associates or anyone who is likely to be a defendant or a witness in the proceedings;
 - The relationship of the witness to the defendant

Appendix C

METHODS OF PROCESSING VIDEO RECORDED INTERVIEWS



Appendix D

GUIDANCE ON THE COMPLETION OF A RECORD OF VIDEO INTERVIEW (ROVI)

Introduction

1. The purpose of this guidance is to identify the functions served by the compilation of a Record of Video Interview (ROVI) with a vulnerable or significant witness and to provide guidance intended to assist those completing ROVIs to include all the relevant points and details.

2. A ROVI is distinct from a ROTI which is a record of taped interview with a suspect. It is also not:

- A statement;
- A transcript;
- A replacement for the video; or
- An exhibit.

3. A ROVI should not be confused with any notes that might be taken by an interview monitor during an interview for the purpose of determining any immediate investigative action that might be necessary.

4. The functions served by a ROVI are such that one should be compiled in every case where a vulnerable or significant witness is interviewed on video, irrespective of whether or not a transcript is subsequently created. A ROVI should also be compiled in instances where an interview with a significant witness is audio-recorded.

Functions of a ROVI

5. The overall function of a ROVI is to contribute towards the effective investigation and management of a case by guiding investigating officers and prosecutors through their viewing of the interview.

6. During the pre-charge investigation a ROVI should assist informed decision making as to:

- Whether the witness should be re-interviewed;
- What further enquiries should be conducted;
- Planning interviews with alleged offender(s); and
- Pre-charge advice/charging decisions.

7. Following a decision to charge a ROVI should assist:

- Prosecutors to make decisions about editing;
- Prosecutors to prepare for a pre-trial interview with the witness;
- Prosecutors at bail applications and guilty pleas;
- Transcribers at the CPS Video Transcription Unit (VTU); and

- Prosecuting and defence advocates in the preparation of their case.

General Content

8. ROVIs must always be on form MG15, typed where possible, and should include the following:

- All fields at the top of the form should be completed or deleted as appropriate (e.g. the exhibit box should be deleted or marked “not applicable”);
- All time entries should be recorded in hours, minutes and seconds using the clock shown on the video;
- Speakers should be identified against the relevant time entry and text.

Descriptive Content

9. Although each interview is unique, as a general rule a ROVI should be as succinct as possible. Most of what is reported should be in indirect speech but direct speech should be used where local, idiosyncratic or potentially ambiguous language is reported.

10. The finished ROVI should, as far as possible, give a chronological account of the conduct of the interview and include the following:

- Rapport (engage and explain), including ground rules and, where appropriate, truth and lies. Simply identifying that a rapport stage took place will usually be all that is required in a ROVI. However, there may be occasions when further information needs to be included, for example where the witness’ appreciation of distance, colour, number and times are relevant;
- Identification issues such as detailed descriptions or identifying features of suspects. This should include the identification points raised in the R v Turnbull and Camelo (1976) case;
- Details of the location of the event witnessed;
- Points to prove the offences;
- Details of the time, frequency, dates, locations and those present when the offence(s) occurred;
- The extent of any injuries;
- Any threats and admissions made;
- Key statements made by the witness, the suspect or other witnesses;
- Anything that negates a potential defence (e.g. consent);
- Any aggravating factors (including racial, homophobic, gender etc);
- Any corroborative evidence identified (witnesses, CCTV, forensic etc.) and
- Any issue that undermines the prosecution case or supports the defence case.

11. Where a Victim Personal Statement (VPS) has been made on the same tape/disk, reference to that fact should be made on the ROVI and a short summary included.

12. Background material of no apparent relevance should be summarised in general terms as far as possible.

Distribution of a ROVI

13. Copies of the ROVI will be provided to all parties in the proceedings, including prosecution and defence counsel and the judge.