

Official guidance puts child abuse victims at serious risk of having their evidence contested, credibility questioned

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In a new article published in the *Scots Law Times*, researchers at the University of Abertay Dundee point out that aspects of the newly published guidance on how best to interview victims of child abuse will make it harder for one of society's most vulnerable groups to get justice.

Lead author of the paper Dr David La Rooy - an expert in child forensic interviewing – says that vital components of the internationally recognised best-practice [protocol](#) in how to conduct child interviews are not included in the most recent Scottish Government (2011) [guidelines](#).

This, he asserts, is putting children at serious risk of having their evidence contested and their [credibility](#) questioned, which can lead to

them missing out on getting justice.

The previous (2003) guidelines made very clear that any interview involving children must follow a clear structure, as shown by scientific research.

For example, the 'ground rules' should be laid out at the beginning of the interview to explain to the child that they can correct the [interviewer](#) if they do not understand something, that it is OK for them to say that they do not know the answer to a question if they really do not know, and that they should not guess.

The 'ground rules' should be followed by a 'practice interview'.

In the new guidelines, however, both the use of the 'ground rules' and the emphasis on the importance of using a structured approach are called into question – something which is of grave concern to Dr La Rooy.

He says:

"There is an international consensus, based on over 20 years of scientific research, that interviewing victims of [child abuse](#) using a structured approach is the best way to find out what, if anything, happened.

"This research supports the use of the NICHD (National Institutes for Child Health and Human Development) Protocol, which has been tested in many studies, is used throughout the world, and is referred to throughout the scientific literature.

"It is well documented that the NICHD Protocol increases the use of 'open-ended prompts' from the interviewer, and that these kinds of questions enable the child to access what we call their 'free-recall memory' – which is where the most accurate information about events

that really happened to them comes from.

"Using open-ended prompts also reduces the number of misleading or suggestive questions that are asked, which makes the evidence much more robust when it is presented in court. So it is important to use a scientifically tested procedure such as the NICHD Protocol.

"To emphasise the importance of using this structured approach to interviewing, the previous 2003 guidelines included an example protocol of how the interview should be conducted.

"However, this Protocol has been removed from the latest guidelines which is a retreat from best-practice: despite being hailed internationally as the 'gold standard' approach to interviewing children, experts who drafted the new Scottish Government guidelines do not recommend the evidence based approach.

"The names of the authors of these new guidelines were not provided, they remain anonymous and, from a scientific perspective, that is unusual. Furthermore, the fact that alterations have been made to the guidelines based on questionable evidence is extremely worrying – if people are not trained to interview children properly, the interviews, if used as evidence in court, will be 'pulled apart' and the child's case could suffer. This means that victims of child abuse will be potentially denied justice."

In the new paper, published in the latest edition of the Scots Law Times, Dr La Rooy raises these concerns and reports the findings of two new preliminary studies he has conducted that show why these changes are so detrimental for children in Scotland.

The first of these analyses the quality of investigative interviews that were conducted in Scotland between 2003 and 2011 – the period during

which the previous 2003 guidelines were used to train police, social workers and others who need to interview children.

Dr La Rooy found that, even with the more stringent guidelines in place, very few of the interviews examined, which were referred to him by lawyers seeking expert evaluations, were of high enough quality to avoid legal challenge.

This was because the correct procedures had not been followed and, had the interviewers not previously received the training that advocated using the structured approach, or seen the example of the protocol that they should follow (which was included in the 2003 guidelines they were trained from), it is likely that the quality of the interviews would have been even poorer.

For example, even with training based on these guidelines, only a fifth of interviewers let the child know that they were allowed to answer with "I don't know" (an important ground rule), 36 per cent of questions were option-posing or questions that required a yes or no answer, and 17 per cent of questions were suggestive.

Had the previous guidelines not emphasised the importance of laying out the 'ground rules' at the beginning of the interview and the importance of using a structured approach to ensure open-ended prompts were used, rather than suggestive questions, these figures would have been much higher.

These findings are consistent with numerous other studies conducted both in the UK and worldwide, which show that, despite initial training, interviewers find it hard to comply with professional recommendations if they do not receive ongoing support and feedback – and when they are not trained using scientifically tested procedures.

The second study looked at whether the quality of interviewing improved if interviewers were able to use the sample protocol provided in the Appendix of the 2003 guidelines.

The preliminary research conducted here in Scotland shows that there was a marked difference in the types of questions asked when they were able to do this: the number of open-ended prompts they provided rose to 29 per cent, which is in line with international best practice, and the number of suggestive questions dropped to a mere two per cent.

Dr La Rooy explains:

"The quality of child interviews can make or break a case, so it is of the utmost importance that police and social workers are trained to the highest possible standard and that an evidence based approach is used.

"The research that I've presented in this paper shows what a positive difference using a structured interview approach can make: the use of open-ended prompts increased significantly and the number of suggestive questions asked, were reduced to just two per cent.

"So the decision to remove such important aspects of the 2003 guidelines is not supported by recent developments in the scientific field.

"If we want justice for our children, it is imperative that this decision is rethought so that police, social workers and anyone else who may be called upon to conduct an investigative interview with a child is able to do so in the most effective, and most supportive, way possible, and that scientifically validated procedures are followed .

The paper concludes by recommending that the National Institutes of [Child Health](#) and Human Development (NICHD) Protocol, is used in Scotland, as it is elsewhere in the world, for joint investigative

interviewer training.

It also recommends that those who receive training continue to be evaluated and supported to ensure they are able to obtain the most reliable and robust evidence that will stand up in court and ensure victims of abuse get justice.

More information: Dr La Rooy's study is published in the current edition of the *Scots Law Times* and is entitled "Joint Investigative Interviews with Children in Scotland".

Provided by University of Abertay Dundee

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